

# **Oklahoma Statutes**

## **Title 59 Professions and Occupations**

### **Chapter 7 Dentistry**

#### **Oklahoma Statutes Citationized**

#### **Title 59. Professions and Occupations**

#### **Chapter 7 - Dentistry**

#### **Part 1 - The State Dental Act**

#### **Section 328 - Designation of Chapter 7 into Two Parts**

Chapter 7 of Title 59 of the Oklahoma Statutes shall be composed of two parts as follows: Part 1 shall be titled the State Dental Act, and Part 2 shall be titled the Oklahoma Dental Mediation Act.

#### **Section 328.1 - Short Title - Composition of Act**

A. Part 1 of Chapter 7 of this title shall be known and may be cited as the "State Dental Act".

B. All statutes hereinafter enacted and codified in Part 1 of Chapter 7 of this title shall be considered and deemed part of the State Dental Act.

#### **Part 1 - The State Dental Act**

#### **Section 328.2 - Declarations**

The practice of dentistry in the State of Oklahoma is hereby declared to affect the public health, safety and general welfare and to be subject to regulation and control in the public's best interest. It is further declared to be a matter of public interest and concern that the dental profession, through advancement and achievement, merits and receives the confidence of the public and that only properly qualified dentists be permitted to practice dentistry and supervise dental hygienists, dental assistants and oral maxillofacial surgery assistants in the State of Oklahoma. All provisions of this act relating to the practice of dentistry, the practice of dental hygiene, the procedures performed by dental assistants and oral maxillofacial surgery assistants, and the fabrication of dental appliances in dental laboratories by dental laboratory technicians shall be liberally construed to carry out these objects and purposes.

#### **Section 328.3 - Definitions**

As used in the State Dental Act, the following words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

1. "Accredited dental college" means an institution whose dental educational program is accredited by the Commission on Dental Accreditation of the American Dental Association;
2. "Accredited dental hygiene program" means a dental hygiene educational program which is accredited by the Commission on Dental Accreditation of the American Dental Association;
3. "Accredited dental assisting program" means a dental assisting program which is accredited by the Commission on Dental Accreditation of the American Dental Association;
4. "Board" means the Board of Dentistry;
5. "Certified dental assistant" means a dental assistant who has earned and maintains current certified dental assistant certification from the Dental Assisting National Board (DANB);
6. "Coronal polishing" means a procedure limited to the removal of plaque and stain from exposed tooth surfaces, utilizing a slow speed hand piece with a rubber cup or brush and polishing agent and is not prophylaxis. To be considered prophylaxis, examination for calculus and scaling must be done by a hygienist or dentist;
7. "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained;
8. "Dentistry" means the practice of dentistry in all of its branches;

9. "Dentist" means a graduate of an accredited dental college who has been issued a license by the Board to practice dentistry as defined in Section 328.19 of this title;
10. "Dental ambulatory surgical center (DASC)" means a facility that operates exclusively for the purpose of furnishing outpatient surgical services to patients. A DASC shall have the same privileges and requirements as a dental office and additionally must be an accredited facility by the appropriate entity;
11. "Dental office" means an establishment owned and operated by a dentist for the practice of dentistry, which may be composed of reception rooms, business offices, private offices, laboratories, and dental operating rooms where dental operations are performed;
12. "Dental hygienist" means an individual who has fulfilled the educational requirements and is a graduate of an accredited dental hygiene program and who has passed an examination and has been issued a license by the Board and who is authorized to practice dental hygiene as hereinafter defined;
13. "Dental assistant or oral maxillofacial surgery assistant" means an individual working for a dentist, under the dentist's direct supervision or direct visual supervision, and performing duties in the dental office or a treatment facility, including the limited treatment of patients in accordance with the provisions of the State Dental Act. A dental assistant or oral maxillofacial surgery assistant may assist a dentist with the patient; provided, this shall be done only under the direct supervision or direct visual supervision and control of the dentist and only in accordance with the educational requirements and rules promulgated by the Board;
14. "Dental laboratory" means a location, whether in a dental office or not, where a dentist or a dental laboratory technician performs dental laboratory technology;
15. "Dental laboratory technician" means an individual whose name is duly filed in the official records of the Board, which authorizes the technician, upon the laboratory prescription of a dentist, to perform dental laboratory technology, which services must be rendered only to the prescribing dentist and not to the public;
16. "Dental laboratory technology" means using materials and mechanical devices for the construction, reproduction or repair of dental restorations, appliances or other devices to be worn in a human mouth;
17. "Dental specialty" means a specialized practice of a branch of dentistry, recognized by the Board, where the dental college and specialty program are accredited by the Commission on Dental Accreditation (CODA), or a dental specialty recognized by the Board, requiring a minimum number of hours of approved education and training and/or recognition by a nationally recognized association or accreditation board;
18. "Direct supervision" means the supervisory dentist is in the dental office or treatment facility and, during the appointment, personally examines the patient, diagnoses any conditions to be treated, and authorizes the procedures to be performed by a dental hygienist, dental assistant, or oral maxillofacial surgery assistant. The supervising dentist is continuously on-site and physically present in the dental office or treatment facility while the procedures are being performed and, before dismissal of the patient, evaluates the results of the dental treatment;
19. "Direct visual supervision" means the supervisory dentist has direct ongoing visual oversight which shall be maintained at all times during any procedure authorized to be performed by a dental assistant or an oral maxillofacial surgery assistant;
20. "Fellowship" means a program designed for post-residency graduates to gain knowledge and experience in a specialized field;
21. "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired;
22. "General supervision" means the supervisory dentist has diagnosed any conditions to be treated within the past thirteen (13) months, has personally authorized the procedures to be performed by a dental hygienist, and will evaluate the results of the dental treatment within a reasonable time as determined by the nature of the procedures performed, the needs of the patient, and the professional judgment of the supervisory dentist. General supervision may only be used to supervise a hygienist and may not be used to supervise an oral maxillofacial surgery assistant or dental assistant;
23. "Indirect supervision" means the supervisory dentist is in the dental office or treatment facility and has personally diagnosed any conditions to be treated, authorizes the procedures to be performed by a dental hygienist, remains in the dental office or treatment facility while the procedures are being performed, and will evaluate the results of the dental treatment within a reasonable time as determined by the nature of the procedures performed, the needs of the patient,

and the professional judgment of the supervisory dentist. Indirect supervision may not be used for an oral maxillofacial surgery assistant or a dental assistant;

24. "Investigations" means an investigation proceeding, authorized under Sections 328.15A and 328.43a of this title, to investigate alleged violations of the State Dental Act or the rules of the Board;

25. "Laboratory prescription" means a written description, dated and signed by a dentist, of dental laboratory technology to be performed by a dental laboratory technician;

26. "Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected;

27. "Mobile dental anesthesia provider" means a licensed and anesthesia-permitted dentist, physician or certified registered nurse anesthetist (CRNA) that has a mobile dental unit and provides anesthesia in dental offices and facilities in the state;

28. "Mobile dental clinic" means a permitted motor vehicle or trailer utilized as a dental clinic, and/or that contains dental equipment and is used to provide dental services to patients on-site and shall not include a mobile dental anesthesia provider. A mobile dental clinic shall also mean and include a volunteer mobile dental facility that is directly affiliated with a church or religious organization as defined by Section 501(c)(3) or 501(d) of the United States Internal Revenue Code, the church or religious organization with which it is affiliated is clearly indicated on the exterior of the mobile dental facility, and such facility does not receive any form of payment either directly or indirectly for work provided to patients other than donations through the affiliated church or religious organization; provided, that the volunteer mobile dental facility shall be exempt from any registration fee required under the State Dental Act;

29. "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained;

30. "Prophylaxis" means the removal of any and all calcareous deposits, stains, accretions or concretions from the supragingival and subgingival surfaces of human teeth, utilizing instrumentation by scaler or periodontal curette on the crown and root surfaces of human teeth including rotary or power-driven instruments. This procedure may only be performed by a dentist or dental hygienist;

31. "Patient" or "patient of record" means an individual who has given a medical history and has been examined and accepted by a dentist for dental care;

32. "Residencies" are programs designed for advanced clinical and didactic training in general dentistry or other specialties or other specialists at the post-doctoral level recognized by the American Dental Association or the Board;

33. "Supervision" means direct supervision, direct visual supervision, indirect supervision or general supervision; and

34. "Treatment facility" means:

- a. a federal, tribal, state or local public health facility,
- b. a federal qualified health care facility (FQHC),
- c. a private health facility,
- d. a group home or residential care facility serving the elderly, handicapped or juveniles,
- e. a hospital or dental ambulatory surgery center (DASC),
- f. a nursing home,
- g. a penal institution operated by or under contract with the federal or state government,
- h. a public or private school,
- i. a patient of record's private residence,
- j. a mobile dental clinic,

k. a dental college, dental program, dental hygiene program or dental assisting program accredited by the Commission on Dental Accreditation, or

l. such other places as are authorized by the Board.

### **Section 328.7 - Board of Dentistry - Creation - Members - Terms**

A. Pursuant to Section 39 of Article V of the Oklahoma Constitution, there is hereby created the Board of Dentistry which shall be an agency of state government. The Board shall adopt a seal, sue and be sued in its own name, and implement and enforce the provisions of the State Dental Act.

B. 1. The Board shall consist of eight dentist members, one dental hygienist member and two members who shall represent the public. One dentist member shall be elected by the dentists residing in each of the eight geographical districts established by subsection D of this section. The residence of the dentist members shall be determined by the primary location listed on the dentists' licenses. The dental hygienist member shall be elected at-large by the dental hygienists residing in this state who are legally licensed to practice dental hygiene therein. The two public representative members shall be appointed by the Governor, subject to confirmation by the Senate. No public representative member may be a dentist, dental hygienist, dental assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory, or be related within the third degree of consanguinity or affinity to any such person.

2. Before assuming duties on the Board, each member shall take and subscribe to the oath of office or affirmation provided in Article XV of the Oklahoma Constitution, which oath or affirmation shall be administered and filed as provided in the Article.

3. Each member of the Board shall hold office for a term of three (3) years and until a successor in office is elected and qualified. Board members shall not serve for more than three (3) consecutive terms. To be eligible to be elected to and serve on the Board, a dentist or dental hygienist must have been licensed to practice in this state for at least five (5) years, and for the five (5) years prior to the date of counting the ballots, not have been subject to a penalty imposed by the Board or another state board.

C. 1. a. Nominations for dentist members of the Board shall be by petition signed by at least ten dentists residing in the district to be represented by the nominee.

b. Nominations for the dental hygienist member of the Board shall be by petition signed by at least ten dental hygienists residing in this state.

2. The elections shall be by secret ballot. The ballots shall be mailed by the Board to those entitled to vote at least thirty (30) days prior to the date of counting of the ballots and shall be returned by mail to the office of the Board, then opened and counted at a meeting of the Board. In other respects, elections shall be conducted as provided by the rules of the Board.

3. a. Only dentists residing in a district shall be entitled to vote to elect the Board member from that district.

b. Only dental hygienists residing and licensed in this state shall be entitled to vote to elect the dental hygienist Board member.

D. For the purpose of nominating and electing dentist members of the Board, this state shall be divided into eight geographical districts, which shall consist of the following counties within the following districts:

District No. 1: Cimarron, Texas, Beaver, Harper, Woods, Alfalfa, Grant, Kay, Ellis, Woodward, Major, Garfield, Noble, Dewey, Blaine, Kingfisher and Logan.

District No. 2: Tulsa and Creek.

District No. 3: Roger Mills, Custer, Beckham, Washita, Harmon, Greer, Kiowa, Caddo, Jackson and Tillman.

District No. 4: Canadian, Grady, McClain, Comanche, Cotton, Stephens, Jefferson, Garvin, Murray, Carter and Love.

District No. 5: Oklahoma.

District No. 6: Lincoln, Cleveland, Pottawatomie, Seminole, Okfuskee, Hughes, Pontotoc, Coal, Johnston, Marshall and Bryan.

District No. 7: Mayes, Wagoner, Cherokee, Adair, Okmulgee, Muskogee, Sequoyah, McIntosh, Haskell, Pittsburg, Latimer, LeFlore, Atoka, Pushmataha, Choctaw and McCurtain.

District No. 8: Osage, Payne, Washington, Nowata, Craig, Ottawa, Rogers, Delaware and Pawnee.

E. 1. Dentist members of the Board may be recalled and removed from the Board in a special recall election to be conducted by the Board upon receipt of a written recall petition signed by at least twenty percent (20%) of the dentists residing in the district represented by the member who is the subject of the recall petition. Only dentists residing in the affected district may vote in the special recall election.

2. The dental hygienist member of the Board may be recalled and removed from the Board in a special recall election to be conducted by the Board upon receipt of a written recall petition signed by at least twenty percent (20%) of the licensed dental hygienists residing in this state. Only dental hygienists residing and licensed in this state shall be entitled to vote in the special recall election.

3. Special recall elections shall be by secret ballot. The ballots shall be mailed by the Board to those entitled to vote at least thirty (30) days prior to the date of counting the ballots and shall be returned by mail to the office of the Board, then opened and counted at a meeting of the Board. In other respects, special recall elections shall be conducted as provided by the rules of the Board. If a majority of the votes cast in the special recall election are in favor of recalling the Board member, the member shall be removed from the Board effective on the date the results of the special recall election are certified by the Board.

F. 1. A vacancy among the dentist members of the Board shall be filled by a special election in the district of the vacancy for the unexpired term within sixty (60) days after the vacancy occurs.

2. A vacancy of the dental hygienist member on the Board shall be filled by a special election in this state for the unexpired term within sixty (60) days after the vacancy occurs.

3. Nominations shall be made and special elections shall be conducted in the same manner as provided in subsection C of this section. If no one is nominated within forty-five (45) days from date of vacancy, the vacancy shall be filled by appointment by the Board. A vacancy among the public representative members of the Board shall be filled by appointment by the Governor, subject to confirmation by the Senate.

#### **Section 328.10 - Election of Officers - Meetings - Reimbursement of Expenses**

A. The Board of Dentistry shall organize annually at the last regularly scheduled meeting of the Board before the beginning of each fiscal year, by electing from among its members a president, a first vice-president, a second vice-president, and a secretary-treasurer. The duties of each officer shall be prescribed in the rules of the Board. The term of office of the persons elected president, vice-presidents and secretary-treasurer shall be for the following fiscal year and until their successors are elected and qualified.

B. The Board shall hold regularly scheduled meetings during each quarter of the year at a time and place determined by the Board and may hold such additional regular meetings, special meetings, emergency meetings, or continued or reconvened meetings as found by the Board to be expedient or necessary. A majority of the Board shall constitute a quorum for the transaction of business.

C. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

D. The responsibilities and rights of any member or employee of the Board who acts within the scope of Board duties or employment shall be governed by the Governmental Tort Claims Act.

E. Members of the Board, committee members, anesthesia inspectors and investigative panel members appointed by the Board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

#### **Section 328.15 - Authority and Powers of Board**

A. Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Board of Dentistry shall have the power to formulate, adopt, and promulgate rules as may be necessary to regulate the practice of dentistry in this state and to implement and enforce the provisions of the State Dental Act.

B. The Board is authorized and empowered to:

1. Examine and test the qualifications of applicants for a license or permit to be issued by the Board;

2. Affiliate by contract or cooperative agreement with another state or combination of states for the purpose of conducting simultaneous regional examinations of applicants for a license to practice dentistry, dental hygiene, or a dental specialty;
3. Maintain a list of the name, current mailing address and principal office address of all persons who hold a license or permit issued by the Board;
4. Account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each fiscal year;
5. Within limits prescribed in the State Dental Act, set all fees and administrative penalties to be imposed and collected by the Board;
6. Employ an Executive Director, legal counsel and other advisors to the Board, including advisory committees;
7. Investigate and issue investigative and other subpoenas, pursuant to Article II of the Administrative Procedures Act;
8. Initiate individual proceedings and issue orders imposing administrative penalties, pursuant to Article II of the Administrative Procedures Act, against any dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory who has violated the State Dental Act or the rules of the Board;
9. Conduct, in a uniform and reasonable manner, inspections of dental offices and dental laboratories and their business records;
10. Establish guidelines for courses of study necessary for dental assistants, oral maxillofacial surgery assistants and, when appropriate, issue permits authorizing dental assistants to perform expanded duties;
11. Establish continuing education requirements for dentists, dental hygienists, dental assistants and oral maxillofacial surgery assistants who hold permits issued by the Board;
12. Recognize the parameters and standards of care established and approved by the American Dental Association;
13. Formulate, adopt, and promulgate rules, pursuant to Article I of the Administrative Procedures Act, as may be necessary to implement and enforce the provisions of the Oklahoma Dental Mediation Act;
14. Seek and receive advice and assistance of the Office of the Attorney General of this state;
15. Promote the dental health and the education of dental health of the people of this state;
16. Inform, educate, and advise all persons who hold a license or permit issued by the Board, or who are otherwise regulated by the Board, regarding the State Dental Act and the rules of the Board;
17. Affiliate with the American Association of Dental Boards as an active member, pay regular dues, and send members of the Board as delegates to its meetings;
18. Enter into contracts;
19. Acquire by purchase, lease, gift, solicitation of gift or by any other manner, hold, encumber, and dispose of personal property as is needed, maintain, use and operate or contract for the maintenance, use and operation of or lease of any and all property of any kind, real, personal or mixed or any interest therein unless otherwise provided by the State Dental Act; provided, all contracts for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;
20. Receive or accept the surrender of a license, permit, or certificate granted to any person by the Board as provided in Section 328.44b of this title; and

21. Take all other actions necessary to implement and enforce the State Dental Act.

**Section 328.15A - Board Investigators - Authority**

A. Investigators for the Board shall be authorized to:

1. Perform such services as are necessary in the investigation of criminal activity or preparation of administrative actions; and
2. Investigate and inspect records of all licenses in order to determine whether licensees are in compliance with applicable narcotics and dangerous drug laws and regulations.

B. Board investigators certified as peace officers by the Council on Law Enforcement Education and Training shall have statewide jurisdiction to perform the duties authorized by subsection A of this subsection. Such investigators shall have the powers now or hereafter vested in law to peace officers.

C. Upon retirement, a Board investigator shall be entitled to receive the continued custody and possession of the sidearm and badge he or she carried immediately prior to retirement.

**Section 328.15B - Board of Dentistry Executive Director**

The Board of Dentistry shall employ an Executive Director. The Board may authorize or direct the Executive Director to:

1. Employ and maintain an office staff;
2. Employ one or more investigators who may be certified peace officers who shall be commissioned with all the powers and authority of peace officers of this state;
3. Enter into contracts on behalf of the Board; and
4. Perform other duties on behalf of the Board as needed or directed.

**Section 328.17 - Standing Committees for Dental Board of Dentistry - Hygiene Committee - Allied Dental Education Committee**

A. 1. The Board of Dentistry shall have the following standing committees that shall meet once per year and other times as needed to study issues affecting the practice of dentistry and the safety of the public and to make recommendations to the Board:

- a. Dental Practice Committee,
- b. Anesthe Committee,
- c. Specialty Practice Committee,
- d. Historical and Retirement Committee, and
- e. Assistants, Dental Labs and Other Auxiliary Personnel Committee.

2. Each committee shall be cochaired by a current or past Board member to be appointed by the Board President with approval by the Board and a member of a statewide organization representing dentists as recommended by such organization;

3. Each committee may have up to ten committee members with the exception of the Anesthesia Committee which may have up to eighteen members, exclusive of the cochairs;

4. The Board President, with approval of the Board, shall appoint all committee members. One-half (1/2 or 50%) of the committee members shall be recommended by the Board and one-half (1/2 or 50%) of the committee members shall be recommended to the Board President by a statewide organization representing dentists; and

5. Committee members shall be on staggered three-year terms and shall serve at the pleasure of the Board.

B. There shall be a Dental Hygiene Advisory Committee to be composed of the following members:

1. One current dental hygiene member of the Board;

2. Two dental hygienists recommended by the Board and two dental hygienists recommended by a statewide organization representing dental hygienists;

3. The Committee shall have the following functions:

a. to develop and propose recommendations to the Board regarding the education, examination, licensure, and regulation of dental hygienists,

b. to advise the Board in rulemaking regarding dental hygiene,

c. to hold meetings at least annually, but not more than four (4) times a year, and

d. to work directly with the Allied Dental Education Committee in reviews and recommendations for equivalent dental hygiene programs; and

4. Members of the Committee shall be appointed by the Board and shall serve a term of three (3) years. Appointments shall be made so that approximately one-third (1/3 or 33%) of the Committee is reappointed at any given time. Members may be appointed for consecutive terms if recommended by the Board President and approved by the Board.

C. There shall be an Allied Dental Education Committee.

1. The Board President shall appoint all members of the Allied Dental Education Committee upon approval by the Board;

2. The Allied Dental Education Committee shall:

a. review the standards and equivalency of in-state and out-of-state dental and auxiliary program requirements and make recommendations to the Board,

b. evaluate individual credentials and programs for the purpose of issuing dental assistant expanded duty permits and dental hygiene advanced procedure permits from persons holding out-of-state licenses and permits based on CODA or DANB programs and criteria as defined by the State Dental Act and other statutes and shall make recommendations to the Board,

c. recommend standards and guidelines and review criteria for all expanded duty programs or courses for dental assistants from CODA approved programs and non-CODA approved providers and advanced procedures of dental hygienists from CODA approved programs to the Board, and

d. recommend and develop guidelines for classroom, electronic media and other forms of education and testing;

3. The Committee shall meet as deemed necessary by the Board President;

4. The Committee may have up to ten (10) members of whom three shall have a background in dental education. The Committee shall be composed of:

a. the Board President or his or her designee who must be a current or past Board Member,

b. the hygiene member of the Board or their designee who must be a current or past Board Member,

c. the Dean of the University of Oklahoma College of Dentistry or his or her designee,



d. up to seven at-large members, one of which must be an educator and one of which must have a current Certified Dental Assistant Permit.

D. The Board President shall have the authority to appoint other ad hoc committees as needed.

E. All Committee members of standing committees, the Hygiene Committee and the Allied Dental Education Committee shall serve staggered three-year terms and serve at the pleasure of the Board.

**Section 328.19 - Acts Constituting Practice of Dentistry - Acts Not Prevented**

A. The following acts by any person shall be regarded as practicing dentistry within the meaning of the State Dental Act:

1. Representing oneself to the public as being a dentist or as one authorized to practice dentistry;
2. Representing oneself to the public as being able to diagnose or examine clinical material or contract for the treating thereof;
3. Representing oneself as treating or professing to treat by professional instructions or by advertised use of professional equipment or products;
4. Representing oneself to the public as treating any of the diseases or disorders or lesions of the oral cavity, teeth, gums, maxillary bones, and associate structures;
5. Removing human teeth;
6. Repairing or filling cavities in human teeth;
7. Correcting or attempting to correct malposed teeth;
8. Administering anesthetics, general or local;
9. Treating deformities of the jaws and adjacent structures;
10. Using x-ray and interpreting dental x-ray film;
11. Offering, undertaking or assisting, by any means or methods, to remove stains, discolorations, or concretions from the teeth;
12. Operating or prescribing for any disease, pain, injury, deficiency, deformity, or any physical condition connected with the human mouth;
13. Taking impressions of the teeth and jaws;
14. Furnishing, supplying, constructing, reproducing, or repairing, or offering to furnish, supply, construct, reproduce, or repair, prosthetic dentures, sometimes known as plates, bridges, or other substitutes for natural teeth for the user or prospective user thereof;
15. Adjusting or attempting to adjust any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth;
16. Diagnosing, making, and adjusting appliances to artificial casts of malposed teeth for treatment of the malposed teeth in the human mouth, without instructions;
17. Writing a laboratory prescription to a dental laboratory or dental laboratory technician for the construction, reproduction or repair of any appliance or structure to be worn in the human mouth;
18. Owning, maintaining, or operating an office or offices by holding a financial interest in same for the practice of dentistry; or

19. Any other procedure otherwise defined in the State Dental Act requiring a valid license or permit to perform while the person does not hold such valid license or permit issued by the Board.

B. The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign or other media representing oneself to be a dentist shall be prima facie evidence that the person is engaged in the practice of dentistry; provided that nothing in this section shall be so construed as to prevent the following:

1. Physicians or surgeons, who are licensed under the laws of this state, from administering any kind of treatment coming within the province of medicine or surgery;
2. The practice of dentistry in the discharge of their official duties by dentists in the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, the United States Public Health Service, or the United States Veterans Administration;
3. Dental schools or colleges, as now conducted and approved, or as may be approved, and the practice of dentistry by students in dental schools, colleges or hospitals, approved by the Board, when acting under the direction and supervision of licensed dentists or dentists holding properly issued permits acting as instructors;
4. Acts of a dental clinician or other participant at a dental educational meeting or at an accredited dental college, when no fee is charged to or paid by a patient;
5. The practice of dental hygiene, as defined herein, by a person granted a license by the Board;
6. The performing of acts by a dental assistant or oral maxillofacial surgery assistant who performs the acts under the direct supervision or direct visual supervision of a dentist and in accordance with the provisions of the State Dental Act and the rules promulgated by the Board; or
7. The fabrication of dental appliances pursuant to a laboratory prescription of a dentist, by a dental laboratory technician in a dental laboratory using inert materials and mechanical devices for the fabrication of any restoration, appliance or thing to be worn in the human mouth.

#### **Section 328.21 - Registration and Display of Licenses and Certificates**

A. No person shall practice dentistry or dental hygiene without first applying for and obtaining a license from the Board of Dentistry.

B. Application shall be made to the Board in writing and shall be accompanied by the fee established by the rules of the Board, together with satisfactory proof that the applicant:

1. Is of good moral character;
2. Is twenty-one (21) years of age, or over, at the time of making application to practice dentistry or eighteen (18) years of age, or over, if the applicant is to practice dental hygiene;
3. Has passed a written theoretical examination and a clinical examination approved by the Board; and
4. Has passed a written jurisprudence examination over the rules and laws affecting dentistry in this state.

C. An application from a candidate who desires to secure a license from the Board to practice dentistry or dental hygiene in this state shall be accompanied by satisfactory proof that the applicant:

1. Is a graduate of an accredited dental college, if the applicant is to practice dentistry;
2. Is a graduate of an accredited dental hygiene program, if the applicant is to practice dental hygiene;
3. Has passed all portions of the National Board Dental Examination or the National Board Dental Hygiene Examination; and

4. Has passed the Western Regional Examination Board (WREB), or another regional exam as approved by the Board, as specified in Section 328.15 of this title.

D. When the applicant and the accompanying proof are found satisfactory, the Board shall notify the applicant to appear for the jurisprudence examination at the time and place to be fixed by the Board. A dental student or a dental hygiene student in their last semester of a dental or dental hygiene program, having met all other requirements, may make application and take the jurisprudence examination with a letter from the dean of the dental school or director of the hygiene program stating that the applicant is a candidate for graduation within the next six (6) months.

E. The Board shall require every applicant for a license to practice dentistry or dental hygiene to submit, for the files of the Board, a copy of a dental degree or dental hygiene degree, an official transcript, a recent photograph duly identified and attested, and any other information as required by the Board.

F. Any applicant who fails to pass the jurisprudence examination may apply for a second examination, in which case the applicant shall pay a reexamination fee as established by the statutes or rules of the State Dental Act.

G. Any applicant who fails to pass the clinical examination as described in paragraph 4 of subsection C of this section may be given credit for such subjects as the Board may allow, but such credits shall be extended only to the succeeding examinations. If the applicant fails to pass a second examination, before further re-examination, the Board may require evidence of additional education, as specified by the Board. After a third examination, the Board may deny the applicant another examination.

H. A dentist or dental hygienist currently licensed in another state having met the qualifications in paragraphs 1 through 3 of subsections B and C of this section may apply for a license by credentials upon meeting the following:

1. A dentist holding a general dentist license in good standing and having practiced for at least five hundred (500) hours per year for the previous five (5) years immediately prior to application and having passed a regional examination substantially equivalent to the requirements for this state may apply for licensure by credentials;

2. A dental hygienist holding a dental hygiene license in good standing and having practiced for at least four hundred twenty (420) hours per year for the previous two (2) years immediately prior to application and having passed a regional examination substantially equivalent to the requirements for Oklahoma may apply for licensure by credentials. Applicants for reciprocity must include:

a. a letter of good standing from all states ever licensed,

b. proof of five (5) years of continuous active practice immediately prior to application for dentists and two (2) years for hygienists, and

c. any other requirements as set forth by the rules; or

3. An applicant applying for a dental or dental hygiene license by credentials shall only be required to pass the jurisprudence portion of the examination requirements as set forth in paragraph 4 of subsection C of this section.

I. There shall be two types of advanced procedure available for dental hygienists upon completion of a CODA approved program or course that has been approved by the Board:

1. Administration of nitrous oxide; and

2. Administration of local anesthesia.

J. All licensees and permit holders shall display their current permit or license in a visible place within the dental office or treatment facility.

#### **Section 328.22 - Specialist License**

A. 1. The Board of Dentistry may issue a dental specialty license authorizing a dentist to represent himself or herself to the public as a specialist, and to practice as a specialist, in a dental specialty.

2. No dentist shall represent himself or herself to the public as a specialist, nor practice as a specialist, unless the individual:

a. has successfully completed an advanced dental specialty educational program recognized by the Board and accredited by the Commission on Dental Accreditation, or a dental specialty recognized by the Board, requiring a minimum number of hours of approved education and training and/or recognition by a nationally recognized dental specialty accreditation board,

b. has met the requirements for a general dental license set forth by Section 328.21 of this title,

c. has passed the jurisprudence examination covering the State Dental Act, rules and state laws, and

d. has completed any additional requirements set forth in state law or rules and has been issued a dental specialty license by the Board.

3. Specialties recognized by the Board shall include:

a. dental public health,

b. endodontics,

c. oral and maxillofacial surgery,

d. oral and maxillofacial radiology,

e. orthodontics and dentofacial orthopedics,

f. pediatric dentistry,

g. periodontics,

h. prosthodontics, and

i. oral pathology.

B. 1. At the time of application, if the dentist has ever been licensed in any other state, he or she shall provide a letter of good standing from such state before the Board may issue a specialty license.

2. In conducting an investigation of an applicant who has applied for a dental specialty license pursuant to this subsection, the Board shall require of the applicant disclosure of the same background information as is required of an applicant for a license to practice dentistry in this state.

C. Any person holding an Oklahoma specialty license that does not have an Oklahoma general dentistry license shall be limited to practicing that specialty for which they hold a license.

D. The Board may use the American Dental Association guidelines or the guidelines of another nationally recognized dental association or board for the purpose of defining a specialty practice area not otherwise defined herein.

### **Section 328.23 - Temporary Licensing of Dentists and Dental Hygienists - Temporary License Holder's Rights**

A. The President of the Board, upon verification that a person meets the requirements provided for in this section and any other requirements provided for in the State Dental Act, may issue a temporary license to practice dentistry for thirty (30) days. A temporary license may be extended but shall not exceed ninety (90) days or the next available regularly scheduled Board meeting.

B. The President of the Board, upon verification that a person meets the requirements provided for in the State Dental Act, may issue a temporary license to practice dental hygiene, which shall expire as of the date of the next dental hygiene clinical examination in Oklahoma, as required by the Board.

C. A holder of a temporary license to practice dentistry or dental hygiene shall have the same rights and privileges and be governed by the State Dental Act and the rules of the Board in the same manner as a holder of a permanent license to practice dentistry and dental hygiene.

D. The President of the Board may authorize patient treatment and care to individuals taking the Western Regional Examining Board Exam to complete criteria related to Board examinations and may authorize specialty examinations to be given throughout the year as needed.

### **Section 328.23a - Special Volunteer Licenses for Dentist and Dental Hygienist**

A. There is established a special volunteer license for dentists and a special volunteer license for dental hygienists who are retired from active practice or out-of-state licensees in active practice who are in the Oklahoma Medical Reserve Corps or assisting with emergency management, emergency operations, or hazard mitigation in response to any emergency, man-made disaster, or natural disaster, or participating in public health initiatives, disaster drills, and community service events that are endorsed by a city, county, or state health department in the state and wish to donate their expertise for the dental care and treatment of indigent and needy persons of the state. The special volunteer license shall be:

1. Issued by the Board of Dentistry to eligible persons;
2. Issued without the payment of an application fee, license fee or renewal fee;
3. Issued or renewed without any continuing education requirements for a period less than one (1) calendar year; and
4. Issued for one (1) calendar year or part thereof.

B. A dentist or dental hygienist must meet the following requirements to be eligible for a special volunteer license:

1. Completion of a special volunteer dental or dental hygiene license application, including documentation of the dentist's dental or dental hygiene school graduation and practice history;
2. Documentation that the dentist or dental hygienist has been previously issued a full and unrestricted license to practice dentistry or dental hygiene in Oklahoma or in another state of the United States and that he or she has never been the subject of any medical or dental disciplinary action in any jurisdiction. If the dentist or dental hygienist is licensed in more than one state and any license of the licensee is suspended, revoked, or subject to any agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction, the dentist or dental hygienist shall be ineligible to receive a special volunteer license;
3. Acknowledgement and documentation that the dentist's or dental hygienist's practice under the special volunteer license will be exclusively and totally devoted to providing dental care to needy and indigent persons in Oklahoma;
4. Acknowledgement and documentation that the dentist or dental hygienist will not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any dental services rendered under the special volunteer license; and
5. A listing of all locations and dates that the person will be completing volunteer work under the special volunteer license.

C. The Board of Dentistry shall have jurisdiction over dentists, dental hygienists, dental assistants, and dental technicians who volunteer their professional services in the state. Dental assistants and dental technicians shall work under the direct supervision of a dentist.

D. Dental assistants may be issued a volunteer permit at the request of an entity that provides dental services to the needy. Volunteers in a volunteer initiative who are not dentists or dental hygienists shall be named and provided on a list to the Board by the entity hosting the volunteer initiative with any other requirements as set forth by the Board. The Board shall provide written documentation to the host entity designating all persons who may participate in the volunteer initiative, including authorization of the timetable requested by the host entity for granting licensure exemption. Any person working under a volunteer dental assistant permit shall not receive payment or compensation for any services rendered under the volunteer dental assistant permit. Volunteer dental assistant permits shall be limited to specific dates and locations of services to be provided.

E. All persons providing care shall do so under the provisions specified in Section 328.1 et seq. of this title or rules promulgated by the Board. Only those functions authorized by law or administrative rule shall be performed by the named person approved by the Board.

F. Volunteers shall not use sedation or general anesthesia during volunteer procedures.

G. Volunteers shall use a form to be provided by the Board for any patient with clear instructions for any and all follow-up care.

H. At any time, the Board shall revoke a volunteer license based on documentation of failure to participate according to state laws or administrative rules.

I. A special volunteer license shall be restricted to services provided at the locations listed on the application or for a specific not-for-profit treatment provider group as approved by the Board.

#### **Section 328.23b - Retired Volunteer Dental Licenses - Eligibility**

A dentist, dental hygienist or dental assistant who has been licensed or permitted in good standing with the Board in excess of twenty (20) years on a consecutive basis may apply for a retired volunteer dentist, dental hygienist or dental assistant license or permit on a yearly basis to provide volunteer services. There shall be no continuing education requirements. A retired dentist, dental hygienist or dental assistant with a retired volunteer license or permit shall not receive payment either directly or indirectly for work provided.

#### **Section 328.24 - Dental Assistant and Oral Maxillofacial Surgery Assistant Permits - Application - Expanded Duty Permits**

A. No person shall practice as a dental assistant or oral maxillofacial surgery assistant for more than one (1) day in a calendar year without having applied for a permit as a dental assistant or oral maxillofacial surgery assistant from the Board of Dentistry within thirty (30) days of beginning employment. During this time period, the dental assistant shall work under the direct visual supervision of a dentist at all times.

B. The application shall be made to the Board in writing and shall be accompanied by the fee established by the Board, together with satisfactory proof that the applicant:

1. Is of good moral character; and
2. Passes a background check with criteria established by the Board.

C. Beginning January 1, 2019, every dental assistant receiving a permit shall complete a class on infection control as approved by the Board within one (1) year from the date of receipt of the permit. Any person holding a valid dental assistant permit prior to January 1, 2019, shall complete an infection-control class as approved by the Board before December 31, 2019. Failure to complete the class shall be grounds for discipline pursuant to Section 328.29a of this title.

D. There shall be five types of expanded duty permits available for dental assistants upon completion of a program approved by the Commission on Dental Accreditation (CODA) or a course that has been approved by the Board:

1. Radiation safety;
2. Coronal polishing and topical fluoride;
3. Sealants;
4. Assisting in the administration of nitrous oxide; or
5. Assisting a dentist who holds a parenteral or pediatric anesthesia permit; provided, only the dentist may administer anesthesia and assess the patient's level of sedation.

E. The training requirements for all five expanded duty permits shall be set forth by the Board. A program that is not CODA-certified must meet the standards set forth and be approved by the Board.

F. An applicant for a dental assistant permit who has graduated from a dental assisting program accredited by CODA and has passed the jurisprudence test shall receive all five expanded duty permits provided for in subsection D of this section if the course materials approved by the Board are covered in the program.

#### **Section 328.25 - Oral Maxillofacial Surgery Assistant Permit - Application and Requirements - Temporary Training Permit - Requirement of Supervision - Continuing Education**

A. No person shall practice as an oral maxillofacial surgery assistant without having obtained a permit as an oral maxillofacial surgery assistant from the Board of Dentistry.

B. Any person seeking to obtain an oral maxillofacial surgery assistant permit must have a supervising oral maxillofacial surgeon with a current Oklahoma license and complete the requirements set forth by the Board.

C. The application shall be made to the Board in writing and shall be accompanied by the fee established by the Board, together with the satisfactory proof that the applicant:

1. Is of good moral character;
2. Passes a background check with criteria established by the Board; and
3. Has completed all of the training requirements for the oral maxillofacial surgery assistant permit as established by the Board.

D. An oral maxillofacial surgery assistant permit shall be considered a temporary training permit until all of the training requirements, as established by the Board for each oral maxillofacial surgery assistant, have been completed and approved by the Board.

E. A temporary training permit for each oral maxillofacial surgery assistant shall not be extended beyond two (2) years.

F. All oral maxillofacial surgery assistants are required to be under direct supervision or direct visual supervision at all times by a licensed oral maxillofacial surgeon.

G. If an oral maxillofacial surgery assistant is not currently employed by an oral maxillofacial surgeon, the oral maxillofacial surgery assistant permit shall automatically revert to a dental assistant permit as set forth in Section 328.24 of this title and may be eligible for an expanded function assisting a dentist who holds a parenteral or pediatric anesthesia permit; provided, only the dentist may administer anesthesia and assess the patient's level of sedation. The oral maxillofacial surgery assistant permit may be reinstated upon employment under a licensed oral maxillofacial surgeon.

H. Any oral maxillofacial surgeon shall notify the Board within thirty (30) days of an oral maxillofacial surgery assistant no longer under his or her supervision.

I. An applicant for an oral maxillofacial surgery assistant permit shall provide satisfactory proof of:

1. Successful completion of the Dental Anesthesia Assistant National Certification Examination (DAANCE) provided by the American Association of Oral Maxillofacial Surgeons (AAOMS) or another program or examination as approved by the Board;
2. A valid BLS certification;
3. Employment and completion of a minimum of six (6) months of training under the direct supervision of a licensed oral maxillofacial surgeon prior to starting DAANCE or another program or examination as approved by the Board;
4. A standardized course approved by the Board including a minimum of four (4) hours of didactic training that must include anatomy, intravenous access or phlebotomy, technique, risks and complications, and hands-on experience starting and maintaining intravenous lines on a human or simulator/manikin, and pharmacology;
5. Completion of an infection-control course as approved by the Board.

J. An oral maxillofacial surgery assistant who has completed all the requirements shall receive a permit to practice as an oral maxillofacial surgery assistant within a dental office, surgery center, dental ambulatory surgery center or hospital.

K. Oral maxillofacial surgery assistants shall be required to complete twelve (12) hours of continuing education every three (3) years in classes approved by AAOMS that are certified by the American Dental Association CERP program or another program approved by the Board. The continuing education requirement shall include at least one (1) hour on infection control.

L. The anesthesia committee provided pursuant to Section 328.17 of this title may make a recommendation to the Board for an oral maxillofacial surgery assistant holding a temporary training permit to substitute training received from another state university, dental school or technical training institute or training acquired in a surgery center or hospital while working under the authority of a licensed physician, to qualify as a partial substitute for the requirements to attain an oral maxillofacial surgery assistant permit.

M. An oral maxillofacial surgery assistant may only accept delegation from an oral and maxillofacial surgeon:

1. Under direct supervision:
  - a. initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia, or
  - b. draw up and prepare medications;

2. Under direct visual supervision:

- a. follow instructions of the oral surgeon while acting as an accessory hand on behalf of the oral surgeon that is administering the medication and actively treating the patient. For the purposes of this section, "administer" means to have the sole responsibility for anesthesia care, including determining medicines to be used and the dosage, timing, route of delivery and administration of medication and the assessment of the level of anesthesia and monitoring the physiological results of such care; provided, only an oral surgeon or dentist possessing a current general anesthesia permit may administer or assess the level of sedation or general anesthesia and monitor the results of such care,
- b. follow instructions of the oral surgeon to adjust the rate of intravenous fluids to maintain or keep the line patent or open and adjust an electronic device to provide medications such as an infusion pump, and
- c. assist the oral surgeon by reading, recording vital signs of a patient receiving deep sedation or general anesthesia; provided, only an oral surgeon may assess the level of sedation; and

3. Only an oral surgeon shall be responsible to diagnose, treat, monitor, determine and administer the selection of the drug, dosage, and timing of all anesthetic medications and care of the patient through the perioperative period shall rest solely with the supervising oral and maxillofacial surgeon.

4. Nothing in this act shall be construed as to allow an oral surgery assistant or dental assistant to administer anesthesia care to a patient.

**Section 328.26 - Issuance of Dental Intern, Resident, or Fellowship Permit**

A. The Board of Dentistry may, without examination, issue a dental student intern, resident or fellowship permit to a student or graduate of an approved dental school or college, or a residency program approved by the Commission on Dental Accreditation (CODA). Upon meeting the qualifications and upon approval of the dean or the governing body of any public or private institution any person may request a dental student intern, resident or fellow permit to be issued from the Board, with limited duties as defined in the permit. A fellowship permit may only be given to a person currently participating in a fellowship program affiliated with an accredited dental school.

B. A dental student intern, resident or fellowship permit shall not be issued to any person whose license to practice dentistry in this state or in another state has been suspended or revoked, or to whom a license to practice dentistry has been refused.

C. A dental student intern, resident or fellowship permit shall not authorize the holder to open an office for the private practice of dentistry, or to receive compensation for the practice of dentistry, except a salary paid by the federal government or this state, or their subdivisions, or the public or private institution where the holder of the dental student intern, resident or fellowship permit will be employed.

D. A dental student intern with a valid dental student intern permit may work under the direct supervision of a licensed dentist for compensation upon meeting the following criteria:

- 1. The dental student intern shall notify the Board of the supervising dentist;
- 2. A dental student intern, having finished the first year of dental school, may assist in all duties of a dental assistant pursuant to the administrative rules of the Board; and
- 3. A dental student intern, having finished the second year of dental school, may assist in all duties permitted in paragraph 2 of this subsection, radiation safety, coronal polishing and sealants.

E. A dental student intern, resident or fellowship permit shall automatically expire when the permit holder is no longer participating in the program offered by the college of dentistry, the accredited dental college or the institution.

F. The issuance of a dental student intern, resident or fellowship permit by the Board shall in no way be considered a guarantee or predetermination of any person to receive a full license issued by the Board.

G. Dental student intern or resident or fellowship permits may be renewed annually at the request of the dean of the college or program director of the program approved by CODA and at the discretion of the Board.



H. Students currently enrolled at the University of Oklahoma College of Dentistry or an accredited dental hygiene or dental assisting program shall be exempted from Sections 328.19 and 328.21 of this title while participating in an educational program located at the University of Oklahoma College of Dentistry or the clinic of an accredited dental hygiene or dental assisting program. A licensed dentist, hygienist or faculty license holder shall be physically present in the facility whenever students of dentistry, dental hygiene or dental assisting are performing a clinical dental procedure on patients.

#### **Section 328.27 - Faculty License or Faculty Specialty License**

A. 1. The Board of Dentistry may, without a clinical examination, upon presentation of satisfactory credentials, including completion of all portions of the National Board Dental Examination, the dental hygiene National Boards and both Part I and Part II of the National Board examination for dentists, and under such rules as the Board may promulgate, issue a faculty license or faculty specialty license to an applicant who:

a. is a graduate of a school of dentistry approved by the Board and is licensed to practice dentistry in another state or country,

b. has graduated from an accredited dental program, or

c. successfully completes advanced training in a specialty dental program approved by the Commission on Dental Accreditation of the American Dental Association, or

d. if applying for a hygiene faculty license, is a graduate of an accredited dental hygiene program and is licensed to practice dental hygiene in another state.

2. A faculty license or faculty specialty license shall be issued only upon the request and certification of the dean of an accredited dental college or the program director of an accredited dental hygiene program located in this state that the applicant is a full-time member of the teaching staff of that college or program.

3. Within the first two (2) years of employment, the faculty license or faculty specialty license holder shall show proof of passing an appropriate clinical board examination, as provided in Section 328.21 of this title, recognized by the Board of Dentistry.

4. A faculty license or faculty specialty license shall be valid for one (1) year and may be renewed by the Board at the written request of the dean of an accredited dental program or the director of an accredited dental hygiene program.

5. A faculty license or faculty specialty license shall automatically expire when the license holder is no longer employed as a faculty member at the institution that requested the license.

6. The holder of a faculty license or faculty specialty license shall be entitled to perform services and procedures in the same manner as a person holding a license to practice dentistry or dental hygiene in this state, but all services and procedures performed by the faculty license or faculty specialty license holder shall be without compensation other than that received in salary from a faculty position or through faculty practice as authorized by the Board. The holder of a faculty license or faculty specialty license shall be limited to practicing in the specialty area as designated on the license. Such services and procedures shall be performed only within the facilities of an accredited dental college or accredited dental hygiene program or within the facilities designated by the accredited dental college and teaching hospitals approved by the Board.

B. The dean of an accredited dental or hygiene program may petition the Board to allow a faculty member to have a limited faculty permit, based on a showing of criteria that the individual possesses specialty knowledge in a specific area that would benefit the college or program. The holder of a limited faculty permit shall not have privileges to perform procedures in the faculty practice at the University of Oklahoma College of Dentistry, but may oversee the student clinic. A limited faculty permit shall be valid for one (1) year and may be renewed by the Board at the written request of the dean of an accredited dental program or the director of an accredited dental hygiene program.

C. Upon request of the dean, the Board President may issue a dentist or hygienist licensed in another state or country a temporary license pursuant to Section 328.23 of this title for the purpose of attending, presenting or participating in a seminar or live training in dental techniques or dental anesthesia, given at the University of Oklahoma College of Dentistry to licensed dentists and hygienists for continuing education credits and students enrolled in the University of Oklahoma

College of Dentistry. A temporary permit issued for this purpose shall not exceed seven (7) days and may not be issued to the same person more than four (4) times in a calendar year.

D. Upon the request of the Oklahoma Dental Association President or the Oklahoma Dental Hygienist Association President, the Board President may issue a dentist or a hygienist licensed in another state a temporary license pursuant to Section 328.23 of this title for the purpose of presenting or participating in live patient demonstrations presented by the Oklahoma Dental Association or Oklahoma Dental Hygienist Association or other professional organizations approved by the Board at its annual meeting. A temporary permit issued for this purpose shall not exceed four (4) days per calendar year.

E. Courses for expanded duties for dental assistants pursuant to the administrative rules of the Board may be taught in an online, interactive online, in-classroom, lab or blended format. All expanded-duty courses shall include a dentist or dental hygienist that is employed full- or part-time by an educational program approved by the Commission on Dental Accreditation and currently on file with the Board. Courses offered pursuant to this subsection shall meet all criteria in administrative rules approved by the Board.

### **Section 328.28a - Applicants - Criminal Background Check**

Beginning January 2016, every applicant for any type of license or permit issued by the Board of Dentistry shall be subject to a national criminal background check. The Board may deny a license or permit for any applicant who fails to disclose a criminal history or if any applicant has pled guilty or nolo contendere to or has been convicted of a felony or misdemeanor involving moral turpitude, Medicaid fraud or a violation of federal or state controlled dangerous substances laws.

### **Section 328.29 - Unlawful Practices for Dental Hygienists**

A. It shall be unlawful for any dental hygienist to:

1. Advertise or publish, directly or indirectly, or circulate through the usual commercial channels, such as the press, magazines, directories, radio, television, sign, display or by leaflets, the fact that he or she is in the practice of dental hygiene;
2. Place his or her name in any city, commercial or other directory;
3. Place his or her name in the classified section of a telephone directory;
4. Offer free dental service or examination as an inducement to gain patronage;
5. Claim the use of any secret or patented methods or treatments;
6. Employ or use solicitors to obtain patronage;
7. Pay or accept commission in any form or manner as compensation for referring patients to any person for professional services;
8. In any way advertise as having ability to diagnose or prescribe for any treatment;
9. Publish any schedule or comparative prices or fees for his or her services;
10. Claim or infer superiority over other dental hygienists;
11. Perform any services in the mouth other than those which are hereafter authorized by the Board of Dentistry pursuant to authority conferred by the State Dental Act;
12. Attempt to conduct a practice of dental hygiene in any place or in any manner other than as authorized by Section 328.34 of this title;
13. Attempt to use in any manner whatsoever any oral prophylaxis list, call list, records, reprints or copies of same or information gathered therefrom, or the names of patients whom he or she has formerly treated when serving as an employee in the office of a dentist for whom he or she was formerly employed; or

14. Fail to keep prominently displayed in the office of the dentist for whom he or she is employed his or her license and annual renewal certificate.

B. 1. Any person committing an offense against any of the provisions of this section, including, but not limited to, duly promulgated rules of the Board shall, upon conviction thereof, be subjected to such penalties as are provided in the State Dental Act.

2. A writ of injunction without bond shall be made available to the Board of Dentistry for the enforcement of the State Dental Act.

C. It shall not be a violation of the State Dental Act for a dental hygienist to place his or her name in letters no larger than those used by his or her dentist employer on the door, window or premises, with the letters R.D.H. or the words, dental hygienist, following his or her name.

**Section 328.29a - Revocation or Suspension of Permit of Dental Assistant or Oral Maxillofacial Surgery Assistant - Petition for Reinstatement - Other Disciplinary Actions**

A. The following acts or occurrences by a dental assistant or oral maxillofacial surgery assistant shall constitute grounds for which the penalties specified in Section 328.44a of this title may be imposed by the Board of Dentistry or be the basis for denying a new applicant any license or permit issued by the Board:

1. Any of the causes now existing in the laws of the State of Oklahoma;

2. A violation of the provisions of the State Dental Act; or

3. A violation of the rules of the Board promulgated pursuant to the State Dental Act.

B. The Board shall also have the power to act upon a petition by a dental assistant or oral maxillofacial surgery assistant for reinstatement to good standing. The Board shall keep a record of the evidence and proceedings in all matters involving the revocation or suspension of a permit, censure or probation of a dental assistant or oral maxillofacial surgery assistant. The Board shall make findings of fact and a decision thereon. The Board shall immediately forward a certified copy of the decision to the dental assistant or oral maxillofacial surgery assistant involved by registered mail to the last-known official address as recorded by the Board.

C. The decision shall be final unless the dental assistant or oral maxillofacial surgery assistant appeals the decision as provided by the State Dental Act.

D. The Board shall have power to revoke or suspend the permit, censure, or place on probation a dental assistant or oral maxillofacial surgery assistant for a violation of one or more of the following:

1. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substances laws;

2. Presenting to the Board a false application or documentation for a permit;

3. Being, by reason of persistent inebriety or addiction to drugs, incompetent to continue to function as a dental assistant or oral maxillofacial surgery assistant;

4. Functioning outside the direct or direct visual supervision of a dentist;

5. Performing any function prohibited by Chapter 15 of the Oklahoma Administrative Code or any violation that would be a violation for a dentist or hygienist under Section 328.32 or 328.33 of this title, or any other duty not assignable to a dental assistant; or

6. Failure to secure an annual registration as specified in Section 328.41 of this title.

E. The Board's review panel, as set forth in Section 328.43a of this title, upon concurrence with the president of the Board, may determine that an emergency exists to temporarily suspend the permit of a dental assistant or oral maxillofacial

surgery assistant if the panel finds that public health, safety or welfare imperatively requires emergency action. The panel may conduct a hearing pursuant to Section 314 of Title 75 of the Oklahoma Statutes for the temporary suspension.

**Section 328.31 - Types of Trade Names Prohibited - Registration with Board - Issuance of Certificates - Enforcement Actions**

A. Professional entities formed pursuant to the Professional Entity Act, for the purpose of rendering professional services by a dentist, shall be subject to all of the provisions of the State Dental Act, except that professional entities shall not be required to obtain a license from the Board of Dentistry. Individuals who hold a license issued by the Board shall be responsible, pursuant to the State Dental Act, for their personal conduct without regard to the fact that they are acting as an owner, manager, agent or employee of, or the holder of an interest in, a professional entity.

B. Professional entities formed for the purpose of rendering professional services by a dentist must register with the Board before rendering such services and must update the registration during the renewal period of each year. The Board shall:

1. Provide the form and establish the fee for the registration and update;
2. Maintain a registry of all such professional entities; and
3. Publish annually a summary of the registry.

C. The Board is authorized to issue certificates pursuant to Section 804 of Title 18 of the Oklahoma Statutes and shall maintain a record of each certificate issued.

D. Enforcement actions by the Board for violation of the State Dental Act or the rules of the Board may be brought against a professional entity as well as against any individual who is or has acted as an owner, manager, agent or employee of, or the holder of an interest in, the professional entity.

**Section 328.31a - Use of Trade Names with Practice of Dentistry - Advertisement Requirements**

A. One dentist or multiple dentists may use a trade name in connection with the practice of dentistry provided that:

1. The use of the trade name shall not be false, fraudulent or misleading;
2. The name of the dentist or dentists actually providing the dental services to the patient shall appear on all insurance claim forms, billing invoices or statements sent to the patient and on all receipts if any are given to the patient;
3. Treatment records shall be maintained for each patient that clearly identify the dentist or dentists who performed all dental services for the patient; and
4. When one dentist or multiple dentists make an advertisement in the trade name or the trade name is included in an advertisement, a copy of the advertisement, including but not limited to any electronic form of the advertising, shall be kept by the dentist or dentists for three (3) years from the first publication date of the advertisement.

B. Beginning July 1, 2016, all advertisements for dentistry shall include the name of the dentist or dentists that shall be providing treatment and shall list the type of dental or specialty license on the advertisement.

C. The Board of Dentistry shall promulgate rules regulating advertisements in which one dentist or multiple dentists use a trade name.

**Section 328.31b - Maintenance and Retention of Written Records - Minimum Information - Format**

A. Every dental office or treatment facility, whether individual, group or multi-doctor practice operating under a name, trade name or other professional entity shall maintain written records on each patient treated at the facility and shall make these records available to the Board and other regulatory entities or be subject to the penalties as set forth in Section 328.44 of this title.

B. Each licensed dentist shall maintain written records on each patient that shall contain, at a minimum, the following information about the patient:

1. A health history listing known illnesses, other treating physicians, and current medications prescribed;

2. Results of clinical examination and tests conducted, including the identification, or lack thereof, of any oral pathology or diseases;

3. Treatment plan proposed by the dentist;

4. Treatment rendered to the patient. The patient record shall clearly identify the dentist and the dental hygienist providing the treatment with the dentist, specialty or dental hygienist license number;

5. Whenever patient records are released or transferred, the dentist releasing or transferring the records shall maintain either the original records or copies thereof and a notation shall be made in the retained records indicating to whom the records were released or transferred; and

6. All claims being submitted for insurance must be signed, stamped or have an electronic signature by the treating dentist.

C. Patient records may be kept in an electronic data format, provided that the dentist maintains a backup copy of information stored in the data processing system using disk, tape or other electronic back-up system and that backup is updated on a regular basis, at least weekly, to assure that data is not lost due to system failure. Any electronic data system shall be capable of producing a hard copy on demand.

D. All patient records shall be maintained for seven (7) years from the date of treatment.

E. Each licensed dentist shall retain a copy of each entry in his or her patient appointment book or such other log, calendar, book, file or computer data used in lieu of an appointment book for a period of no less than seven (7) years from the date of each entry thereon.

#### **Section 328.32 - Grounds for Penalties**

A. The following acts or occurrences by a dentist shall constitute grounds for which the penalties specified in Section 328.44a of this title may be imposed by order of the Board of Dentistry or be the basis for denying a new applicant any license or permit issued by the Board:

1. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, Medicaid fraud or a violation of federal or state controlled dangerous substances laws;

2. Presenting to the Board a false diploma, license, or certificate, or one obtained by fraud or illegal means, or providing other false information on an application or renewal;

3. Being, by reason of persistent inebriety or addiction to drugs, incompetent to continue the practice of dentistry;

4. Publishing a false, fraudulent, or misleading advertisement or statement;

5. Authorizing or aiding an unlicensed person to practice dentistry, to practice dental hygiene, or to perform a function for which a permit from the Board is required;

6. Authorizing or aiding a dental hygienist to perform any procedure prohibited by the State Dental Act or the rules of the Board;

7. Authorizing or aiding a dental assistant or oral maxillofacial surgery assistant to perform any procedure prohibited by the State Dental Act or the rules of the Board;

8. Failing to pay fees as required by the State Dental Act or the rules of the Board;

9. Failing to complete continuing education requirements;

10. Representing himself or herself to the public as a specialist in a dental specialty without holding a dental specialty license therefor;

11. Representing himself or herself to the public as a specialist whose practice is limited to a dental specialty, when such representation is false, fraudulent, or misleading;
12. Endangering the health of patients by reason of having a highly communicable disease and continuing to practice dentistry without taking appropriate safeguards;
13. Practicing dentistry in an unsafe or unsanitary manner or place, including but not limited to repeated failures to follow Centers for Disease Control (CDC) or Occupational Health Safety Administration (OSHA) guidelines;
14. Being shown to be mentally unsound;
15. Being shown to be grossly immoral and that such condition represents a threat to patient care or treatment;
16. Being incompetent to practice dentistry while delivering care to a patient;
17. Committing gross negligence in the practice of dentistry;
18. Committing repeated acts of negligence in the practice of dentistry;
19. Offering to effect or effecting a division of fees, or agreeing to split or divide a fee for dental services with any person, in exchange for the person bringing or referring a patient;
20. Being involuntarily committed to an institution for treatment for substance abuse, until recovery or remission;
21. Using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing a laboratory prescription, except as provided in subsection C of Section 328.36 of this title;
22. Aiding, abetting, or encouraging a dental hygienist employed by the dentist to make use of an oral prophylaxis list, or the calling by telephone or by use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist;
23. Having more than the equivalent of three full-time dental hygienists for each dentist actively practicing in the same dental office;
24. Allowing a person not holding a permit or license issued by the Board to assist in the treatment of a patient without having a license or permit issued by the Board;
25. Knowingly patronizing or using the services of a dental laboratory or dental laboratory technician who has not complied with the provisions of the State Dental Act and the rules of the Board;
26. Authorizing or aiding a dental hygienist, dental assistant, oral maxillofacial surgery assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory to violate any provision of the State Dental Act or the rules of the Board;
27. Willfully disclosing information protected by the Health Information Portability and Accountability Act, P.L. 104-191;
28. Writing a false, unnecessary, or excessive prescription for any drug or narcotic which is a controlled dangerous substance under either federal or state law;
29. Prescribing or administering any drug or treatment without having established a valid dentist-patient relationship;
30. Using or administering nitrous oxide gas in a dental office in an inappropriate or unauthorized manner;
31. Engaging in nonconsensual physical contact with a patient which is sexual in nature, or engaging in a verbal communication which is intended to be sexually demeaning to a patient;

32. Practicing dentistry without displaying, at the dentist's primary place of practice, the license issued to the dentist by the Board to practice dentistry and the current renewal certificate;

33. Being dishonest in a material way with a patient;

34. Failing to retain all patient records for at least seven (7) years from the date of the last treatment, except that the failure to retain records shall not be a violation of the State Dental Act if the dentist shows that the records were lost, destroyed, or removed by another, without the consent of the dentist;

35. Failing to retain the dentist's copy of any laboratory prescription for at least three (3) years, except that the failure to retain records shall not be a violation of the State Dental Act if the dentist shows that the records were lost, destroyed, or removed by another, without the consent of the dentist;

36. Allowing any corporation, organization, group, person, or other legal entity, except another dentist or a professional entity that is in compliance with the registration requirements of subsection B of Section 328.31 of this title, to direct, control, or interfere with the dentist's clinical judgment. Clinical judgment shall include, but not be limited to, such matters as selection of a course of treatment, control of patient records, policies and decisions relating to pricing, credit, refunds, warranties and advertising, and decisions relating to office personnel and hours of practice. Nothing in this paragraph shall be construed to:

a. limit a patient's right of informed consent, or

b. prohibit insurers, preferred provider organizations and managed care plans from operating pursuant to the applicable provisions of the Oklahoma Insurance Code and the Public Health Code;

37. Violating the state dental act of another state resulting in a plea of guilty or nolo contendere, conviction or suspension or revocation or other sanction by another state board, of the license of the dentist under the laws of that state;

38. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, as a principal, accessory or accomplice;

39. Failing to comply with the terms and conditions of an order imposing suspension of a license or placement on probation issued pursuant to Section 328.44a of this title;

40. Failing to cooperate during an investigation or providing false information, verbally or in writing, to the Board, the Board's investigator or an agent of the Board; or

41. Having multiple administrative or civil actions reported to the National Practitioner Databank.

B. The provisions of the State Dental Act shall not be construed to prohibit any dentist from displaying or otherwise advertising that the dentist is also currently licensed, registered, certified, or otherwise credentialed pursuant to the laws of this state or a nationally recognized credentialing board, if authorized by the laws of the state or credentialing board to display or otherwise advertise as a licensed, registered, certified, or credentialed dentist.

### **Section 328.33 - Revocation or Suspension of Certificate of Ability of a Dental Hygienist**

A. The following acts or occurrences by a dental hygienist shall constitute grounds for which the penalties specified in Section 328.44a of this title may be imposed by order of the Board of Dentistry or be the basis for denying a new applicant any license or permit issued by the Board:

1. Any of the causes now existing in the laws of the State of Oklahoma;

2. A violation of the provisions of the State Dental Act; or

3. A violation of the rules of the Board promulgated pursuant to the State Dental Act.

B. The Board shall also have the power to act upon a petition by a dental hygienist for reinstatement to good standing. The Board shall keep a record of the evidence and proceedings in all matters involving the revocation or suspension of a license or reprimand or probation of a dental hygienist. The Board shall make findings of fact and a decision thereon. The Board shall immediately forward a certified copy of the decision to the dental hygienist involved by registered mail to the last-known business address of the dental hygienist.

C. 1. The decision shall be final unless the dental hygienist appeals the decision as provided by the State Dental Act.

2. If an appeal is not timely taken, the decision shall be carried out by striking the name of the dental hygienist from the rolls, or suspending the dental hygienist for the period mentioned in issuing a reprimand, or otherwise acting as required by the decision.

D. The Board shall have power to revoke or suspend the license, reprimand, or place on probation a dental hygienist for a violation of one or more of the following:

1. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substances laws;

2. Presenting to the Board a false diploma, license or certificate, or one obtained by fraud or illegal means;

3. Being, by reason of persistent inebriety or addiction to drugs, incompetent to continue the practice of dental hygiene;

4. Has been guilty of dishonorable or unprofessional conduct;

5. Failure to pay registration fees as provided by the State Dental Act;

6. Is a menace to the public health by reason of communicable disease;

7. Being shown to be mentally incapacitated or has been admitted to a mental institution, either public or private, and until the dental hygienist has been proven to be mentally competent;

8. Being shown to be grossly immoral;

9. Being incompetent in the practice of dental hygiene;

10. Committing willful negligence in the practice of dental hygiene;

11. Being involuntarily committed for treatment for drug addiction to a facility, either public or private, and until the dental hygienist has been proven cured;

12. Practicing or attempting to practice dental hygiene in any place or in any manner other than as authorized by Section 328.34 of this title;

13. Using or attempting to use in any manner whatsoever any oral prophylaxis list, call list, records, reprints or copies of same, or information gathered therefrom, of the names of patients whom such dental hygienist might have served in the office of a prior employer, unless such names appear upon the bona fide call or oral prophylaxis list of the present employer of the dental hygienist and were caused to so appear through the legitimate practice of dentistry, as provided for in the State Dental Act;

14. Violating the state dental act of another state resulting in a plea of guilty or nolo contendere, conviction, or suspension or revocation of the license of the dental hygienist under the laws of that state;

15. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, as a principal, accessory or accomplice;



16. Failing to comply with the terms and conditions of an order imposing suspension of a license or placement on probation issued pursuant to Section 328.44a of this title; or

17. Any violation that would otherwise be a violation for a dentist under 328.32 of this title

#### **Section 328.34 - Dental Hygienists - Scope of Practice**

A. A dental hygienist may practice dental hygiene under the supervision of a dentist in a dental office or treatment facility. A dentist may employ not more than the equivalent of three full-time dental hygienists for each dentist actively practicing in the same dental office. Employing the equivalent of three dental hygienists shall mean the employment or any combination of full- or part-time dental hygienists not to exceed one hundred twenty (120) hours per week per dentist.

B. 1. A dentist may delegate to a dental hygienist the following procedures:

a. the duties and expanded duties authorized for dental assistants by the State Dental Act or the rules of the Board of Dentistry,

b. health history assessment pertaining to dental hygiene,

c. dental hygiene examination and the charting of intra-oral and extra-oral conditions, which include periodontal charting, dental charting and classifying occlusion,

d. dental hygiene assessment and treatment planning for procedures authorized by the supervisory dentist,

e. prophylaxis, which means the removal of any and all calcareous deposits, stains, accretions, or concretions from the supragingival and subgingival surfaces of human teeth, utilizing instrumentation by scaler or periodontal curette on the crown and root surfaces of human teeth, including rotary or power-driven instruments. This paragraph shall not be construed to prohibit the use of a rubber cap or brush on the crowns of human teeth by a dental assistant who holds a current expanded duty permit for Coronal Polishing/Topical Fluoride issued by the Board,

f. periodontal scaling and root planing,

g. dental hygiene nutritional and dietary evaluation,

h. placement of subgingival prescription drugs for prevention and treatment of periodontal disease,

i. soft tissue curettage,

j. placement of temporary fillings,

k. removal of overhanging margins,

l. dental implant maintenance,

m. removal of periodontal packs,

n. polishing of amalgam restorations, and

o. other procedures authorized by the Board.

2. The procedures specified in subparagraphs b through o of paragraph 1 of this subsection may be performed only by a dentist or a dental hygienist.

3. Except as provided in subsections C and D of this section, the procedures specified in paragraph 1 of this subsection may be performed by a dental hygienist only on a patient of record and only under the supervision of a dentist. The level of supervision, whether direct, indirect or general, shall be at the discretion of the supervisory dentist. Authorization for general supervision shall be limited to a maximum of thirteen (13) months following an examination by the supervisory dentist of a patient of record. For the purposes of this paragraph, "patient of record" means an individual who has given a medical history and has been examined and accepted by a dentist for dental care.

C. 1. A dentist may authorize procedures to be performed by a dental hygienist, without complying with the provisions of paragraph 3 of subsection B of this section, if:

a. the dental hygienist has at least two (2) years experience in the practice of dental hygiene,

b. the authorization to perform the procedures is in writing and signed by the dentist, and

c. the procedures are performed during an initial visit to a person in a treatment facility.

2. The person upon whom the procedures are performed must be referred to a dentist after completion of the procedures performed pursuant to paragraph 1 of this subsection.
  3. A dental hygienist shall not perform a second set of procedures on a person pursuant to this subsection until the person has been examined and accepted for dental care by a dentist.
  4. The treatment facility in which any procedure is performed by a dental hygienist pursuant to this subsection shall note each such procedure in the medical records of the person upon whom the procedure was performed and list the dentist that authorized the hygienist to perform the procedures signed by the hygienist.
- D. A treatment facility may employ dental hygienists whose services shall be limited to the examination of teeth and the teaching of dental hygiene or as otherwise authorized by the Board.
- E. The Board is authorized to:
1. Prescribe, by rule, advanced procedures that may be performed by a dental hygienist who has satisfactorily completed a course of study regarding the performance of such procedures. The advanced procedures shall include the administration of local anesthesia and the administration of nitrous oxide analgesia;
  2. Establish guidelines for courses of study necessary for a dental hygienist to perform advanced procedures;
  3. Issue authorization to perform advanced procedures to those dental hygienists who meet the eligibility requirements; and
  4. Establish the level of supervision, whether direct, indirect or general, under which the advanced procedures may be performed.
- F. A dental hygienist shall not own or operate an independent practice of dental hygiene.
- G. Nothing in the State Dental Act shall be construed to prohibit a dentist from performing any of the procedures that may be performed by a dental hygienist.
- H. Nothing in the State Dental Act shall be construed to allow a dental assistant to work under the supervision of a dental hygienist while acting under direct, indirect or general supervision.

#### **Section 328.36 - Permit to Operate Dental Laboratory**

- A. 1. Any person, firm, corporation, partnership or other legal entity who desires to operate a dental laboratory in this state shall file with the Board of Dentistry, on a form prescribed by the Board, an application for a permit to operate a dental laboratory and pay the fee established by the rules of the Board. The application shall include the name and address of each person, firm, corporation, partnership or other legal entity who owns an interest in or will operate the dental laboratory. Upon receipt of the application and fee, the Board shall determine the qualifications of the applicant and may grant a permit to the applicant to operate a dental laboratory.
2. Except as provided in subsection C of this section, no person, firm, corporation, partnership or other legal entity shall operate a dental laboratory in this state without having obtained a permit from the Board. The Board may inspect any dental laboratory prior to the issuance of any permit.
- B. Any change in ownership, operation or location of a dental laboratory shall immediately be communicated to the Board, which shall endorse upon the permit, without further fee, the change in ownership, operation or location.
- C. Nothing in the State Dental Act shall be construed to:
1. Prohibit a dentist from owning or operating a private, noncommercial dental laboratory in a dental office for the dentist's use in the practice of dentistry;
  2. Require a dentist to obtain a permit from the Board for the operation of a dental laboratory in the office of the dentist unless dental laboratory technology is provided to persons other than the dentist at that location; or
  3. Require a dentist to issue a laboratory prescription for dental laboratory technology to be performed by an employee of, in the office of, and for a patient of, the dentist.
- D. The dental laboratory shall make available to the prescribing dentist, Board, or agent or employee of the Board:
1. A list of all materials in the composition of the final appliance;

2. The location where the appliance was fabricated, including the name, address, telephone number and Food and Drug Administration registration number, if applicable, of the person or entity performing the work; and

3. A description of all disinfection methods used in the fabrication of the appliance.

E. No permit shall be required for a licensed dentist in the State of Oklahoma, the licensed dentist's dental practice on-site dental lab, the licensed dentist's physical practice, or the licensed dentist's CAD, CAM, 3-D or other technology used for fabricating dental prostheses including crowns, bridges and other dental restorations. If the licensed dentist provides dental prostheses for other licensed dentists in the State of Oklahoma, then the dental laboratory portion of the practice shall be required to have a permit as it is functioning as a commercial dental laboratory.

### **Section 328.36a - Laboratory Prescriptions**

A. A dentist may utilize a dental laboratory technician and a dental laboratory to perform or provide dental laboratory technology. Except as provided in subsection C of Section 328.36 of this title, a dentist who utilizes the services of a dental laboratory technician or dental laboratory shall furnish a laboratory prescription for each patient for whom a work product is prescribed.

B. Laboratory prescriptions issued by a dentist shall be on forms containing the minimum information required by subsection D of this section and shall be produced or printed by each dentist. Such forms shall be provided by the Board of Dentistry or downloaded from the Board's website. All forms shall be completed in full and signed by the prescribing dentist. The owner of a dental laboratory shall retain each original laboratory prescription received from a prescribing dentist and produce the document for inspection and copying by a member of the Board or by an agent or employee of the Board, for a period of three (3) years from the date of the laboratory prescription. The prescribing dentist shall retain the duplicate copy of each laboratory prescription and produce the document for inspection and copying by a member of the Board or by an agent or employee of the Board, for a period of three (3) years from the date of the laboratory prescription.

C. The patient's name or the identification number of the laboratory prescription shall appear on all dental models and correspond to all dental restorations, appliances or other devices being constructed, reproduced or repaired. Any dental model, restoration, appliance or other device in the possession of a dental laboratory technician or dental laboratory without a laboratory prescription and corresponding number on the model, restoration, appliance or device shall be prima facie evidence of a violation of the State Dental Act. After completion, the prescribed work product shall be returned by the dental laboratory technician or dental laboratory to the prescribing dentist or the dental office of the dentist with the name or number of the laboratory prescription accompanying the invoice.

D. At a minimum, prescriptions shall contain the following information:

1. The name and address of the dental laboratory;

2. The patient's name and/or identifying number. In the event such identifying number is used, the name of the patient shall be written on a copy of the prescription retained by the dentist;

3. A description of the work to be completed with diagrams, if applicable;

4. A description of the type of materials to be used;

5. The actual date on which the authorization or prescription was written or completed;

6. The signature in ink or by electronic method of the dentist issuing the prescription and the state license number and address of such dentist; and

7. A section to be completed by the dental laboratory and returned to the issuing dentist that shall disclose all information and certify that the information is accurate by including the signature of a reasonable part of the primary contractor.

E. The Board shall make readily available a sample form on the Board's website for use by any licensee at no cost.

F. A dentist may produce, transfer and retain copies of the form electronically.

**Section 328.39a - Grounds for Penalties to Holders of Permit**

The following acts or occurrences by a holder of a permit to operate a dental laboratory shall constitute grounds for which the penalties specified in Section 328.44a of this title may be imposed by order of the Board of Dentistry:

1. Publishing a false, fraudulent or misleading advertisement or statement;
2. Providing dental laboratory technology at a location for which no permit to operate a dental laboratory has been issued by the Board, except as provided in subsection C of Section 328.36 of this title;
3. Providing dental laboratory technology without a laboratory prescription of a dentist, except as provided in subsection C of Section 328.36 of this title;
4. Failing to return a prescribed work product to a prescribing dentist or the dental office of the dentist;
5. Refusing to allow a member of the Board or an agent or employee of the Board to inspect laboratory prescriptions or dental restorations, appliances or other devices that are being constructed, reproduced or repaired;
6. Failing to retain an original laboratory prescription received from a prescribing dentist for a period of three (3) years from the date of the laboratory prescription, except that the failure to retain a document shall not be a violation of the State Dental Act if the owner of the dental laboratory shows that the document was lost, destroyed, or removed by another, without the consent of the owner;
7. Possessing dental equipment not necessary for performing dental laboratory technology;
8. Failing to pay fees as required by the State Dental Act or the rules of the Board;
9. Operating a dental laboratory without displaying, at the primary place of operation, a permit issued by the Board for the operation of the dental laboratory and the current renewal certificate;
10. Being dishonest in a material way with a dentist;
11. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, as a principal, accessory or accomplice; or
12. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substances laws.

**Section 328.40a - Mobile Dental Clinic Registration**

A. A mobile dental clinic providing dental treatment shall register with the Board of Dentistry and provide the following information:

1. The dentist or dentists that will be providing and/or supervising dental treatment to patients;
2. If the mobile dental clinic provides treatment to treatment facilities and/or the general public;
3. Types of treatment available and adequate infection control, as required by the Centers for Disease Control and Prevention and the Occupational Health and Safety Commission, and equipment and procedures; and
4. Other information deemed necessary by the Board to ensure the protection of the public.

B. Every permitted mobile dental clinic shall display in plain view a permit or designation of registration as required by the Board.

C. Failure to register as a mobile clinic shall subject each licensee or permit holder in control or providing treatment to the penalties set forth in Section 328.44a of Title 59 of the Oklahoma Statutes.

**Section 328.41 - Annual Renewals for Dentists, Dental Hygienists, Dental Assistants, Oral Maxillofacial Surgery Assistants, and Other Licensee or Permit Holders - Continuing Education - Reinstatement**

A. 1. On or before the last day of December of each year, every dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant and other licensee or permit holders previously licensed or permitted by the Board to practice in this state, with the exception of those listed in paragraph 2 of this subsection, shall submit a completed renewal application with information as may be required by the Board, together with an annual renewal fee established by the rules of the Board. Upon receipt of the annual renewal fee, the Board shall issue a renewal certificate authorizing the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant to continue the practice of dentistry or dental hygiene, respectively, in this state for a period of one (1) year. Every license or permit issued by the Board shall begin on January 1 and expire on December 31 of each year.

2. Beginning July 1, 2017, resident and fellowship permits shall be valid from July 1 through June 30 of each year and dental student intern permits shall be valid from August 1 through July 31 of each year.

B. Continuing education requirements shall be due at the end of each three-year period ending in 2019 as follows:

1. Dentists shall complete sixty (60) hours;

2. Hygienists shall complete thirty (30) hours;

3. Oral maxillofacial surgery assistants shall complete twelve (12) hours; and

4. Beginning in 2020, continuing education requirements shall be due at the end of each two-year period as follows:

a. dentists shall complete forty (40) hours,

b. hygienists shall complete twenty (20) hours,

c. OMS assistants shall complete eight (8) hours, and

d. dental assistants shall have two (2) hours of infection control.

C. Upon failure of a dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant to pay the annual renewal fee within two (2) months after January 1, the Board shall notify the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant in writing by certified mail to the last-known mailing address of the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant as reflected in the records of the Board.

D. Any dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant whose license or permit is automatically canceled by reason of failure, neglect or refusal to secure the renewal certificate may be reinstated by the Board at any time within one (1) year from the date of the expiration of the license, upon payment of the annual renewal fee and a penalty fee established by the rules of the Board. If the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant does not apply for renewal of the license or permit and pay the required fees within one (1) year after the license has expired, then the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant shall be required to file an application for and take the examination or other requirements provided for in the State Dental Act or the rules promulgated by the Board before again commencing practice.

E. The Board, by rule, shall provide for the remittance of fees otherwise required by the State Dental Act while a dentist or dental hygienist is on active duty with any of the Armed Forces of the United States.

F. In case of a lost or destroyed license or renewal certificate and upon satisfactory proof of the loss or destruction thereof, the Board may issue a duplicate, charging therefor a fee established by the rules of the Board.

G. A dentist, dental hygienist, oral maxillofacial surgery assistant or dental assistant that is in good standing and not under investigation that notifies the Board in writing of a voluntary nonrenewal of license or requests retirement status shall have a right to renew or reinstate his or her license within five (5) years from the date of notice. The Board may require any training or continuing education requirements to be met prior to reinstatement.

H. A dentist, dental hygienist, oral maxillofacial dental assistant or dental assistant that has not had an active license or permit in excess of five (5) years shall be required to apply as a new applicant.

I. Any application for a license or permit that has remained inactive for more than one (1) year shall be closed.

**Section 328.42 - State Dental Fund - Creation**

There is hereby created in the State Treasury a revolving fund for the Board of Dentistry to be designated as "The State Dental Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies

received by the Board pursuant to the provisions of the State Dental Act. All monies accruing to the credit of this fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of implementing and enforcing the provisions of the State Dental Act. Expenditures from this fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

**Section 328.43a - Review and Investigation of Complaint - Authority of Investigative and Review Panel - Confidentiality of Records**

A. 1. Upon the receipt of a complaint to the Board alleging a violation of the State Dental Act or other state or federal law by a licensee, permit holder or other individual under the authority of the Board, the Board President shall assign up to three Board members as the review and investigative panel. The remaining Board members shall constitute the Board member jury panel. In the event the complaint is anesthesia-related, the Board President or acting president may, at his or her discretion, add one or more members of the anesthesia committee to the investigative and review panel.

2. The review and investigative panel, in its discretion, may notify the respondent of the complaint at any time prior to its dismissal of the complaint or making a recommendation to the Board.

B. The review and investigative panel shall confer and shall conduct or cause to be conducted any investigation of the allegations in the complaint as it reasonably determines may be needed to establish, based on the evidence available to the panel, whether it is more likely than not that:

1. A violation of the provisions of the State Dental Act or the rules of the Board has occurred; and
2. The person named in the complaint has committed the violation.

C. 1. In conducting its investigation, a review and investigative panel may seek evidence, take statements, take and hear evidence, and administer oaths and affirmations and shall have any other powers as defined by the Administrative Procedures Act. A review and investigative panel may also use Board attorneys and investigators appointed by the Board to seek evidence.

2. The review and investigative panel shall not have contact or discussions regarding the investigation with the other Board members that shall be on the jury panel during the investigative phase.

3. No Board member that is a dentist living in the same district as a dentist that is the subject of a complaint shall serve on a review and investigative panel or on the Board member jury panel.

4. All records, documents, and other materials during the review and investigative panel portion shall be considered investigative files and not be subject to the Oklahoma Open Records Act.

D. The Board President or other member of the Board shall act as the presiding administrative judge during any proceeding. The presiding administrative judge shall be allowed to seek advice from judicial counsel or other legal counsel appointed by the Board.

E. The investigative and review panel shall have the authority to:

1. Dismiss the complaint as unfounded;
2. Refer the case to mediation pursuant to the Oklahoma Dental Mediation Act. The mediation panel shall report to the review and investigative panel that a mediation was successful or refer the matter back to the review and investigative panel at which time they will reassume jurisdiction or dismiss the complaint;
3. Issue a private settlement agreement that shall not include any restriction upon the licensee's or permit holder's license or permit;
4. Assess an administrative fine not to exceed One Thousand Five Hundred Dollars (\$1,500.00) per violation pursuant to a private settlement agreement; and
5. Issue a formal complaint for a hearing of the Board member jury panel pursuant to Article II of the Administrative Procedures Act against the licensee or permit holder.

The review and investigative panel and the Board President shall have the authority to authorize the Executive Director or the Board's attorney to file an injunction in district court for illegal activity pursuant to the State Dental Act when needed.

F. In the event of a majority of members of the Board being recused from the Board member jury panel, the Board President or presiding administrative judge shall appoint one or more previous Board members with a current active license in good standing to serve as a jury panel member.

G. Any action as set forth in paragraphs 1 through 3 of subsection E of this section shall remain part of the investigation file, and may be disclosed or used against the respondent only if the respondent violates the settlement agreement or if ordered by a court of competent jurisdiction.

H. The Board of Dentistry, its employees, independent contractors, appointed committee members and other agents shall keep confidential all information obtained in the following circumstances:

1. During an investigation into allegations of violations of the State Dental Act, including but not limited to:

a. any review or investigation made to determine whether to allow an applicant to take an examination, or

b. whether the Board shall grant a license, certificate, or permit;

2. In the course of conducting an investigation;

3. Reviewing investigative reports provided to the Board by a registrant; and

4. Receiving and reviewing examination and test scores.

I. The President of the Board or presiding administrative judge shall approve any private settlement agreement.

J. The investigative review panel may make a recommendation for an agreed settlement order to be approved by the Board. The agreed settlement order may include any recommendation agreed upon between the license holder including, but not limited to, any penalty available to the Board pursuant to Section 328.44a of this title.

K. A formal complaint issued by the review and investigative panel shall specify the basic factual allegations and the provisions of the State Dental Act, state law or rules that the license or permit holder is alleged to have violated. The formal notice of a complaint shall be served to the license or permit holder either in person, to their attorney, by agreement of the individual, by an investigator of the Board or a formal process server pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

L. Any information obtained and all contents of any investigation file shall be exempt from the provisions of the Oklahoma Open Records Act.

#### **Section 328.43b - Fatalities Involving Anesthesia - Adverse Outcomes Review and Investigation Panel**

A. In any matter involving a fatality or near fatality of a dental patient within forty-eight (48) hours of receiving anesthesia or that is required to be reported to the Board pursuant to Section 328.55 of this title, such matter shall be investigated by the Adverse Outcomes Review and Investigation Panel.

B. The Adverse Outcomes Review and Investigation Panel shall stand in the place of the Board's Review and Investigation Panel pursuant to Section 328.43a of this title during the complaint and review process.

C. Upon notification of a fatality to the Board, the President of the Board shall assign four members of the Anesthesia Committee pursuant to Section 328.17 of this title to review and investigate the matter.

D. Two of the members shall hold the same license type, whether general or specialty, as the licensee that is the subject of the complaint and two shall hold different types of licenses.

E. All other procedures as defined in Section 328.43a of this title regarding complaint and Board procedures shall be followed.

F. The Board may promulgate rules to implement the provisions of this section.

#### **Section 328.44a - Issuance of Order Imposing Penalties**

A. The Board of Dentistry is authorized, after notice and opportunity for a hearing pursuant to Article II of the Administrative Procedures Act, to issue an order imposing one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant, dental laboratory technician, holder of a permit to operate a dental laboratory, or an entity operating pursuant to the provisions of the Professional Entity Act or the State Dental Act has committed any of the acts or occurrences set forth in Sections 328.29, 329.29a, 328.32, 328.33, 328.39 and 328.39a of this title:

1. Refusal to issue a license or permit, or a renewal thereof, provided for in the State Dental Act;

2. Suspension of a license or permit issued by the Board for a period of time deemed appropriate by the Board;

3. Revocation of a license or permit issued by the Board;
  4. Imposition of an administrative penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) per violation;
  5. Issuance of a censure;
  6. Placement on probation for a period of time and under such terms and conditions as deemed appropriate by the Board;
  7. Probation monitoring fees, which shall be the responsibility of the licensee on all probations; or
  8. Restriction of the services that can be provided by a dentist or dental hygienist, under such terms and conditions as deemed appropriate by the Board.
- B. A dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory, against whom a penalty is imposed by an order of the Board pursuant to the provisions of this section, shall have the right to seek a judicial review of such order pursuant to Article II of the Administrative Procedures Act.

#### **Section 328.44b - Right to Surrender License, Permit, or Certificate**

A. A holder of a license, a permit, or certificate granted by the Board shall have the right to surrender the license, permit, or certificate, in writing, notarized, to the Board if the holder is in good standing with the Board as determined, in its discretion, by the Board. The Board shall accept such surrender in writing after approval at a regular or special Board meeting with the statement that the holder is in good standing with the Board. Any holder who has surrendered a license, permit, or certificate issued by the Board and who shall apply for a license, permit, or certificate after surrender shall be subject to all statutes and rules of the Board applicable at the time of the new application.

B. A holder of a license, permit, or certificate shall not be considered to be in good standing if an investigation of a complaint is pending against the holder. The Board shall not accept a surrender until a complaint is dismissed by the review panel, a settlement agreement is entered or the Board determines that an individual proceeding shall be initiated pursuant to Section 328.43a of this title.

C. If a holder of a license, permit, or certificate wishes to surrender the license, permit, or certificate during the pendency of an initial proceeding, the Board may accept or reject the surrender, in its discretion. The acceptance must be in writing after approval by the Board at a regular or special Board meeting. Any acceptance shall contain the statement that the acceptance is pending disciplinary action. No person who surrenders a license, permit, or certificate to the Board during a pending disciplinary action shall be eligible for reinstatement for a period of five (5) years from the date the surrender is accepted by the Board.

D. The Board shall retain jurisdiction over the holder of any license, permit, or certificate for all disciplinary matters pending at the time surrender is sought by the holder or over any person that does not renew his or her license while an investigation is pending.

E. All surrenders of licenses, permits, or certificates, whether the holder is or is not in good standing, shall be reported to the national practitioner data bank with the notation in good standing or pending disciplinary action.

#### **Section 328.48 - Annual Statement of Receipts and Expenditures**

It shall be the duty of the Board of Dentistry, annually, to have prepared a statement showing the total amount of receipts and expenditures of the Board for the preceding twelve (12) months. The statement shall be properly certified under oath by the president and secretary-treasurer of the Board to the Governor of this state

#### **Section 328.49 - Enforcement of Act - Unlawful Acts - Penalties for Violations - Criminal and Civil Actions**

A. The Board of Dentistry shall be responsible for the enforcement of the provisions of the State Dental Act against all persons who are in violation thereof, including, but not limited to, individuals who practice or attempt to practice dentistry or dental hygiene without proper authorization from the Board.

B. 1. It shall be unlawful for any person, except a licensed dentist, to:

- a. practice or attempt to practice dentistry,



b. hold oneself out to the public as a dentist or as a person who practices dentistry, or

c. employ or use the words "Doctor" or "Dentist", or the letters "D.D.S." or "D.M.D.", or any modification or derivative thereof, when such use is intended to give the impression that the person is a dentist.

2. It shall be unlawful for any person, except a registered dental hygienist, to:

a. practice or attempt to practice dental hygiene,

b. hold oneself out to the public as a dental hygienist or as a person who practices dental hygiene, or

c. employ or use the words "Registered Dental Hygienist", or the letters "R.D.H.", or any modification or derivative thereof, when such use is intended to give the impression that the person is a dental hygienist.

3. It shall be unlawful for any person to:

a. give false or fraudulent evidence or information to the Board in an attempt to obtain any license or permit from the Board, or

b. aid or abet another person in violation of the State Dental Act.

4. Each day a person is in violation of any provision of this subsection shall constitute a separate criminal offense and, in addition, the district attorney may file a separate charge of medical battery for each person who is injured as a result of treatment performed in violation of this subsection.

C. 1. If a person violates any of the provisions of subsection B of this section, the Board shall refer the alleged violation to the district attorney of the county in which the violation is alleged to have occurred to bring a criminal action in that county against the person. At the request of the Board, district attorney or Attorney General, attorneys employed or contracted by the Board may assist the district attorney or Attorney General in prosecuting charges under the State Dental Act or any violation of law relating to or arising from an investigation conducted by the Board of Dentistry upon approval of the Board or the Executive Director.

2. Any person who violates any of the provisions of paragraph 1 or 3 of subsection B of this section, upon conviction, shall be guilty of a felony punishable by a fine in an amount not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county jail for a term of not more than one (1) year or imprisonment in the custody of the Department of Corrections for a term of not more than four (4) years, or by both such fine and imprisonment.

Any person who violates any of the provisions of paragraph 2 of subsection B of this section, upon conviction, shall be guilty of a misdemeanor punishable by a fine in an amount not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Any second or subsequent violation of paragraph 2 of subsection B of this section, upon conviction, shall be a felony punishable by a fine in an amount not less than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for a term of not more than one (1) year or imprisonment in the custody of the Department of Corrections for a term of not more than two (2) years, or by both such fine and imprisonment.

D. The Board may initiate a civil action, pursuant to Chapter 24 of Title 12 of the Oklahoma Statutes, seeking a temporary restraining order or injunction, without bond, commanding a person to refrain from engaging in conduct which constitutes a violation of any of the provisions of subsection B of this section. In a civil action filed pursuant to this subsection, the prevailing party shall be entitled to recover costs and reasonable attorney fees.

E. In addition to any other penalties provided herein, any person found guilty of contempt of court by reason of the violation of any injunction prohibiting the unlicensed practice of dentistry now in effect or hereafter entered pursuant to any provision of the State Dental Act or any preceding state dental act, shall be punished by imprisonment in the county jail for a term of not less than thirty (30) days nor more than one (1) year, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00). The court may also require the defendant to furnish a good

and sufficient bond in a penal sum to be set by the court, not less than One Thousand Dollars (\$1,000.00), which shall be conditioned upon future compliance in all particulars with the injunction entered, and in the event of failure of the defendant to furnish such bond when so ordered, the defendant shall be confined in the county jail pending compliance therewith. Such bond shall be mandatory as to any person hereafter found guilty of a second contempt of court for violation of any injunction entered pursuant to the State Dental Act, or any preceding state dental act.

### **Section 328.51a - Fee and Charge Schedule**

A. The Board of Dentistry is authorized to charge the following fees for the purpose of implementing and enforcing the State Dental Act. The penalty and late fee shall be twice the amount of the original fee for license renewals.

Notwithstanding any other provisions of the State Dental Act, the fees established by the Board shall be not less nor more than the range created by the following schedule:

#### **1. LICENSE AND PERMIT APPLICATION FEES:**

	Minimum	Maximum
a. License by Examination		
Dentist	\$200.00	\$400.00
Dental Hygienist	\$100.00	\$200.00
b. License by Credentialing		
Dentist	\$500.00	\$1,000.00
Dental Hygienist	\$100.00	\$200.00
c. Dental Specialty License by Examination	\$300.00	\$600.00
d. Dental Specialty License by Credentialing	\$500.00	\$1,000.00
e. Faculty Permit		
Dentist	\$100.00	\$200.00
Dental Hygienist	\$50.00	\$100.00
f. Dental Student Intern Permit	\$50.00	\$200.00
g. Temporary License to Practice Dental Hygiene	\$50.00	\$100.00
h. Dental Assistant or Oral Maxillofacial Surgery Assistant Permit	\$50.00	\$100.00
i. Temporary License to Practice Dentistry	\$75.00	\$150.00
j. Permit to Operate a Dental Laboratory – current Oklahoma licensed dentist	\$20.00	\$60.00
k. General Anesthesia Permit		
Dentist	\$100.00	\$200.00
l. Conscious Sedation Permit		
Dentist	\$100.00	\$200.00
m. Permit to Operate a Dental Laboratory – commercial	\$500.00	\$200.00

#### **2. RE-EXAMINATION FEES:**

a.	License by Examination		
	Dentist	\$200.00	\$400.00
	Dental Hygienist	\$100.00	\$200.00
b.	Dental Specialty License by Examination	\$300.00	\$600.00
c.	Jurisprudence Only Re-Examination		
	Dentist	\$10.00	\$20.00
	Dental Hygienist	\$10.00	\$20.00
3. ANNUAL RENEWAL FEES:			
a.	Dentist	\$200.00	\$400.00
b.	Dental Hygienist	\$100.00	\$200.00
c.	Dental Specialty License	\$100.00	\$200.00
d.	Faculty Permit		
	Dentist	\$50.00	\$100.00
	Dental Hygienist	\$50.00	\$100.00
e.	Dental Resident, Dental Fellowship	\$100.00	\$200.00
f.	Dental Assistant, Oral Maxillofacial Surgery Assistant, or Dental Student Intern Permit	\$50.00	\$100.00
g.	Permit to Operate a Dental Laboratory, current Oklahoma Licensed dentist	\$20.00	\$60.00
h.	General Anesthesia Permit		
	Dentist	\$100.00	\$200.00
i.	Conscious Sedation Permit		
	Dentist	\$100.00	\$200.00
j.	Permit to Operate a Dental Laboratory, non-dentist owner	\$300.00	\$500.00
4. OTHER FEES:			
a.	Duplicate License		
	Dentist or Dental Hygienist	\$30.00	\$40.00
b.	Duplicate Permit or Registration	\$5.00	\$15.00
c.	Certificate of Good Standing	\$5.00	\$15.00
d.	Professional Entity Certification Letter	\$5.00	\$20.00
e.	Professional Entity Registration or Update	\$5.00	\$20.00
f.	Mobile Dental Clinic	\$200.00	\$400.00

g.	List of the Name and Current Mailing Address of all Persons who hold a License or Permit issued by the Board. (A request for a list shall be submitted to the Board in writing noting the specific proposed use of the list.)	\$25.00	\$75.00
h.	Official State Dental License Identification Card with Picture	\$25.00	\$35.00
i.	Returned checks	\$25.00	\$30.00

B. A person who holds a license to practice dentistry in this state, and who also holds a dental specialty license, shall not be required to pay an annual renewal fee for the dental specialty license if the licensee has paid the annual renewal fee for the license to practice dentistry.

### **Section 328.53 - Dentists - Professional Malpractice Liability Insurance**

A. All dentists in active practice licensed by the Board of Dentistry shall maintain a policy for professional malpractice liability insurance; provided, however, that such requirement shall not apply to dentists:

1. Covered by a group or hospital malpractice insurance policy;
2. Practicing in a state facility subject to The Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes;
3. Practicing in a federal facility subject to the Federal Tort Claims Act;
4. Providing care as a volunteer under a special volunteer license pursuant to Section 328.23a of this title;
5. Providing care as a retired dentist with a valid license in a volunteer, nonpaid capacity;
6. Practicing in another state or country, who will not practice within the State of Oklahoma during the license renewal year; or
7. A dentist may petition the Board to be temporarily exempted due to health, injury or other personal exigent circumstance during the year. A signed and sworn affidavit and other documentation may be required by the Board. The Board at its discretion may exempt a dentist for a specific stated period of time.

B. The Board of Dentistry may promulgate rules as necessary to carry out the provisions of this section, including, but not limited to, minimum requirements for professional malpractice liability insurance policies and penalties for noncompliance.

### **Section 328.54 - Practice of Dentistry Via the Internet**

Any person conducting a diagnosis for the purpose of prescribing medication or treatment or any other action determined to be a dental practice as defined by the State Dental Act, via the Internet or other telecommunications device on any patient that is physically located in this state shall hold a valid Oklahoma state dental license.

### **Section 328.55 - Duty to Report Death of Patient**

All licensees engaged in the practice of dentistry in this state shall notify the Board within twenty-four (24) hours of the discovery of a death of a patient or an emergency hospital visit pursuant to treatment in a dental office and potentially related to the practice of dentistry by the licensee. A licensee shall submit a complete report to the Board of any fatality or serious injury occurring during the practice of dentistry or the discovery of the death of a patient whose death is causally related to the practice of dentistry by the licensee within thirty (30) days of such occurrence.

### **Section 328.56 - Unlawful Prescriptions - Duties of Dentists**

Every dentist shall have a duty to guard against the illegal diversion and unauthorized or forged prescribing of controlled dangerous substances while practicing dentistry and shall:

1. Notify the Board within twenty-four (24) hours of discovery that an employee or other person, known or unknown, has forged or authorized without the dentist's permission, a prescription via a telecommunications device, electronic prescribing device, written prescription, or otherwise communicated or transferred information with the intent of allowing a

person to obtain a controlled dangerous substance in the dentist's name or by any identifiable license number of the dentist;

2. Maintain all written prescription pads in a safe place while practicing dentistry and shall ensure such prescription pads are not directly accessible to patients;

3. Ensure that all prescriptions issued shall clearly identify the name and current address of the issuing dentist; and

4. Not issue a prescription on a prescribing form in a preprinted format that lists the name of another dentist not presently licensed by the Board.

## **Part 2 - Oklahoma Dental Mediation Act**

### **Section 328.60 - Short Title - Composition of Act**

A. Part 2 of Chapter 7 of this title shall be known and may be cited as the "Oklahoma Dental Mediation Act".

B. All statutes hereinafter enacted and codified in Part 2 of Chapter 7 of this title shall be considered and deemed part of the Oklahoma Dental Mediation Act.

### **Section 328.61 - Public Policy**

It is the declared public policy of the State of Oklahoma that the provision of quality dental health care is essential to the well-being of all citizens of this state, as is the expeditious resolution of disputes relating to dental treatment. The monitoring and assessment of dental services through a mediation system is an efficient and reasonable method of providing an alternative dispute resolution mechanism for patient-dentist disputes while also promoting quality health care that addresses patients' concerns about the quality of treatment. The Legislature, therefore, declares that for the public good, and the general welfare of the citizens of this state, the enactment of the Oklahoma Dental Mediation Act is required.

### **Section 328.62 - Definitions - Communication of Decision by Mediation Committee Not to Review**

As used in the Oklahoma Dental Mediation Act:

1. "Board" means the Board of Dentistry;

2. "Dentist" means a person who has been licensed by the Board to practice dentistry, as defined in Section 328.19 of this title; and

3. "Mediation committee" means a committee of persons duly constituted of or appointed by a statewide organization representing dentists. The Committee shall consist of two (2) members of a statewide organization representing dentists and one former member of the Board not presently serving. The mediation committee is authorized, upon receiving a written request for a review, to conduct a review of the complaints or requests for review of persons, the treatment performed by a dentist and, where appropriate, hold hearings and conduct personal examinations of dental treatment of patients. The mediation committee may, but shall not be obligated to:

a. evaluate the quality of health care services provided by the dentist being reviewed,

b. determine whether health care services rendered were professionally indicated or were performed in compliance with the applicable standards of care,

c. evaluate the quality and timeliness of health care services rendered by a dentist for a patient, and

d. recommend to the parties, a method of settlement, for their acceptance or rejection.

Any decision by the mediation committee not to review a matter shall be communicated by the committee to the affected persons within thirty (30) days after the committee has received the material submitted pursuant to Section 328.65 of this title.

**Section 328.63 - Voluntary Mediation - Liability - Person Supplying Information to Committee - Dismissal from Mediation**

A. A mediation conducted through the Oklahoma Dental Mediation Act shall be voluntary and shall not be construed as a final action for the purposes of injunctive relief or the basis for an appeal to district court. A mediation committee, entities creating such mediation committees, members and staff of such mediation committee, and other persons who assist such mediation committees shall not be liable in any way for damages or injunctive relief under any law of this state with respect to any action taken in good faith by such mediation committee.

B. Any person who supplies information to a mediation committee in good faith and with reasonable belief that such information is true shall not be liable in any way for damages or injunctive relief under any law of this state with respect to giving such information to the mediation committee.

C. Either party involved in the mediation may request to be dismissed from the process at any time. Upon dismissal from the mediation program, the matter shall be referred back to the referring entity.

D. Upon the completion of a successful mediation, the referring entity shall be given notice that the mediation was successful.

**Section 328.64 - Privileged Nature of Records of Mediation Committees - Obtaining Records**

A. Except as provided by subsections B and C of this section, any reports, statements, memoranda, proceedings, findings, or other records of mediation committees shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding. Nor shall any participants in the mediation process be compelled to disclose the proceedings of the mediation committee by deposition, interrogatories, requests for admission, or other means of legal compulsion for use as evidence in any judicial or administrative proceeding. This privilege may be claimed by the legal entity creating the mediation committee, the mediation committee, the individual members of the mediation committee, the dentist whose conduct is being examined, the patient requesting mediation and any witnesses testifying before or supplying information to the mediation committee. Such privilege shall only protect information derived from the mediation proceedings and shall not restrict discovery directed to the dentist who treated the patient, even though the testimony or records of the dentist have become part of the mediation record.

B. Nothing in this section shall limit the authority, which may otherwise be provided by law, of the Board of Dentistry to obtain records of proceedings of the mediation committee for use:

1. In conjunction with the determination of appeals of mediation committee recommendations,
2. In an investigation being conducted by a review panel of the Board, pursuant to Section 328.43a of this title; or
3. In an individual proceeding being conducted by the Board, pursuant to Section 328.44a of this title.

C. Nothing in this section shall limit the authority, which may otherwise be provided by law, of the Attorney General of the State of Oklahoma, a District Attorney, or a United States Attorney to obtain records of proceedings of the mediation committee for use in investigations or litigation, conducted by the State of Oklahoma or the federal government.

**Section 328.65 - Review of Course of Dental Treatment Sought Voluntarily by Patient - Statement of Facts**

A patient may voluntarily seek review of a course of treatment rendered by a dentist. Such review is not mandatory or required prior to the initiation of litigation and the Oklahoma Dental Mediation Act shall in no way limit the patient's access to the courts nor in any way require the patient to participate in mediation proceedings as a prerequisite to initiating suit. If the patient elects to participate in the mediation procedure, the patient must file a written request for the review with a mediation committee in accordance with such rules that the organizations appointing the mediation committee may prescribe. In the request for review, the patient must provide the mediation committee with a true and correct statement of all material facts relating to the course of treatment complained of, the nature of the complaint, and the requested relief sought, in addition to any other requirements that may be prescribed by rule.

The dentist shall thereafter submit a true and correct statement of all material facts relating to the course of treatment complained of, the nature of the complaint, and the dentist's recommended action, if any, in addition to any other requirements that may be prescribed by rule.

The material submitted by the patient and dentist shall be provided by the committee to the opposing party.

#### **Section 328.66 - Written Recommendations of Mediation Committee**

Written recommendations of a mediation committee rendered pursuant to a request for review shall be given to the patient and the dentist concerned, by delivery thereof or by mailing such recommendations to the last-known address of each. The recommendations of the mediation committee shall not be binding on the patient or the dentist, but shall provide an objective assessment of the facts and the course of treatment rendered, and shall include, when appropriate, a proposed remedy or solution to the complaint presented in the request for review.

#### **Section 328.67 - Appeal of Recommendation by Patient or Dentist**

The patient or dentist may appeal the recommendation of the mediation committee to an appellate body to be known as the state mediation appeals committee. A request for an appeal shall be timely filed and conducted in accordance with the prescribed rules. A party must first request an appeal with the state mediation appeals committee before proceeding with a final appeal to the Board of Dentistry. If no intermediate appeal is provided by the applicable mediation program rules, a party may proceed directly to a final appeal before the Board of Dentistry, pursuant to Section 328.68 of this title. The state mediation appeals committee may either affirm, modify or reverse the recommendation of the mediation committee, and shall issue its written nonbinding recommendation to the parties.

#### **Section 328.68 - Request for Final Appeal**

The patient or dentist may file a request for a final appeal of a recommendation of the mediation committee or a recommendation of the state mediation appeals committee to the Board of Dentistry within thirty (30) days after the date of mailing of the mediation committee recommendation or the state mediation appeals committee recommendation. If such recommendation is not mailed, a patient or dentist may file a request for a final appeal within thirty (30) days after the date of delivery of such recommendation to the appealing party.

#### **Section 328.69 - Review of Record - Hearing**

The Board of Dentistry shall review the record of the mediation committee recommendation and the state mediation appeals committee in determining any final appeal. The Board of Dentistry may conduct a formal hearing upon the request of a party or upon its own initiative and may affirm, modify, or reverse the recommendation appealed. Any formal hearing shall be conducted by one or more members of the Board of Dentistry as it may determine, and a hearing shall be conducted in accordance with such rules as it may prescribe. The action of the Board of Dentistry in ruling upon the appealed recommendation shall constitute a final nonappealable decision, however, the final recommendation of the Board of Governors of Registered Dentists shall not be binding on the parties involved in the dispute.

#### **Section 328.70 - Application of Reasonable Procedural Rules**

The mediation committee, the state mediation appeals committee, and the Board of Dentistry shall not be bound by common law or statutory rules of evidence or by technical rules of procedure, but any hearing shall be conducted in such manner as to ascertain the substantial rights of the parties. Mediation committees, state mediation appeals committees, and the Board shall apply reasonable procedural rules consistent with the provisions of the Oklahoma Dental Mediation Act. Each governing organization which is involved in the formation of mediation committees as described in paragraph 3 of Section 328.62 of this title shall adopt and, from time to time, may modify and amend rules of procedure.

#### **Section 328.71 - Nature of Proceedings, Findings, or Recommendations**

A. The protections of Section 328.64 of this title relating to the records created by mediation committees shall apply equally to any records, documents, or proceedings produced in any appeal of a mediation committee recommendation or a state mediation appeals committee recommendation, and protections from liability contained in Section 4 328.63 of this title shall apply equally to persons conducting or participating in appeal proceedings.

B. Neither the whole nor any portion of the findings or recommendations of a mediation committee, state mediation appeals committee, or the Board of Dentistry shall be introduced or admissible during any hearing or trial of litigation brought by the patient, unless both patient and dentist, after the court filing of a petition/complaint agree that the whole or

a portion of the findings of the mediation committee, state mediation appeals committee, or the Board will be introduced or admitted during a hearing or trial.

**Section 328.72 - Act not to Be Impliedly Repealed by Subsequent Legislation**

The Oklahoma Dental Mediation Act being a general act intended as a unified coverage of the subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided. This legislation affirmatively elects out, to the extent permitted by law, from the coverage and reporting requirements of the federal legislation, PL 99-660, with respect to all persons practicing dentistry in this state.

**Section 328.73 - Pursuance of Remedies**

A. A person may pursue any remedy now available through the courts, without first utilizing the provisions of the Oklahoma Dental Mediation Act.

B. No provisions of the Oklahoma Dental Mediation Act shall in any manner limit, alter, modify, delay, compromise or otherwise affect in any respect a patient's right to initiate litigation for relief.